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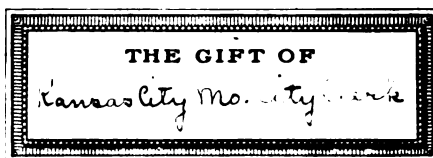
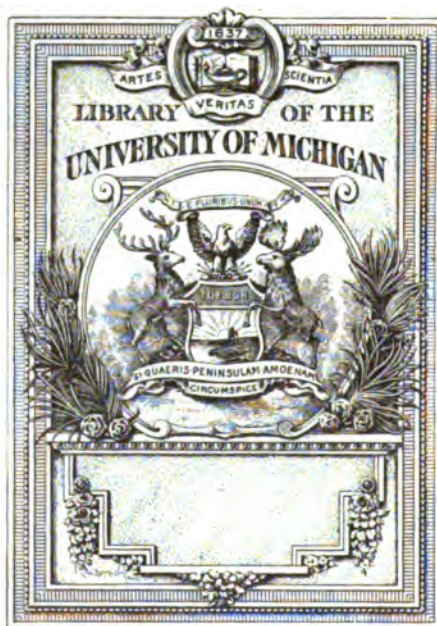
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CHARTER
and
REVISED ORDINANCES
of
KANSAS CITY
1909.

Compiled, Arranged, Annotated and Indexed by

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Preface

Under the provisions of an ordinance approved by the mayor October 12, 1908, a commission of three lawyers was appointed by Thomas T. Crittenden, Jr., Mayor, and confirmed by the Upper House of the Common Council to annotate and index the Charter, adopted by Kansas City August 4, 1908, and to collate, index, annotate and prepare for publication all ordinances of the city of a general nature.

In further pursuance of that ordinance William C. Culbertson, R. Emmet O'Malley and Alvah O. Thompson were appointed from the Upper House of the Common Council and Edmund C. Morris, Frank J. Shinnick and Charles J. Gilman were appointed from the Lower House as an advisory committee charged with the duty of receiving and examining the charter and ordinances when compiled and of making such suggestions as they should deem advisable.

The revising and annotating commission had no authority to alter the text or change the order of arrangement or subdivision of the Charter adopted. At the Charter election Section 30 of Article IV was submitted in two alternatives, whether the first alternative, which provides for the removal of elective officers by the electors, was adopted as such section or the entire section failed of adoption is a question involving so much doubt that it is not within the province of this commission to determine it; both alternatives are set out with a note containing sufficient information to enable those interested to determine the question for themselves.

In the annotations it was considered better to follow the arrangement of the Charter than to adopt what might in some instances be a more logical order of the subject matter. It was thought that this would make the notes more readily accessible. The analysis and style expected in a text book is not possible in this work and has not been attempted. It has been the purpose to call attention to the questions that have arisen in the application of various Charter provisions and the cases construing those provisions. An effort has been made to cite in their proper places all late decisions of the Missouri

PREFACE.

Supreme Court and Courts of Appeal and all leading cases, but where there is a multiplicity of authorities many cases discussed or referred to in the opinions cited have been omitted. The purpose has been to make the information contained in the notes readily accessible, with what success this has been done can be determined only by use of the book by those less familiar with it than the commissioners have become. Free use has been made of the annotations of the Kansas City Charter made in 1898 by Mr. Frank F. Rozelle and Mr. George R. Thompson and the annotations of the St. Louis Charter, made in 1907 by Mr. William Woerner and indebtedness to them for the suggestions offered by their very thorough work is acknowledged.

The commissioners have been free to arrange the ordinances in the order appealing to them as most convenient and logical, but for the convenience of the public who have become familiar with the arrangement of the previous collation that arrangement has been followed so far as practicable. Changes in some ordinances were suggested by the commissioners, but could, of course, be made only by the Council. The ordinances have not been extensively annotated because it was thought that it would be found more convenient to refer to the same subjects in the Charter for annotations where it was essayed to make the notes full and complete.

The ordinances relating to building and buildings, commonly called "The Building Code," have been printed separately in pamphlet form and will not be bound in this volume.

In addition to the Charter and ordinances and the annotations and indexes to them this book includes an introductory note containing a sketch of Kansas City's municipal growth and a discussion of the relation of a special charter city to the state under our constitution and laws, a register of the officials of Kansas City from its incorporation to the present date, sections of the Federal and State Constitutions and of the Missouri Statutes applicable to the affairs of the municipality and a map prepared by Mr. Theodore Naish of the City Engineering Department, showing the boundaries of the city as they have been from time to time extended.

REES TURPIN,
GEORGE KINGSLEY,
CHARLES L. SHANNON,
Commissioners.

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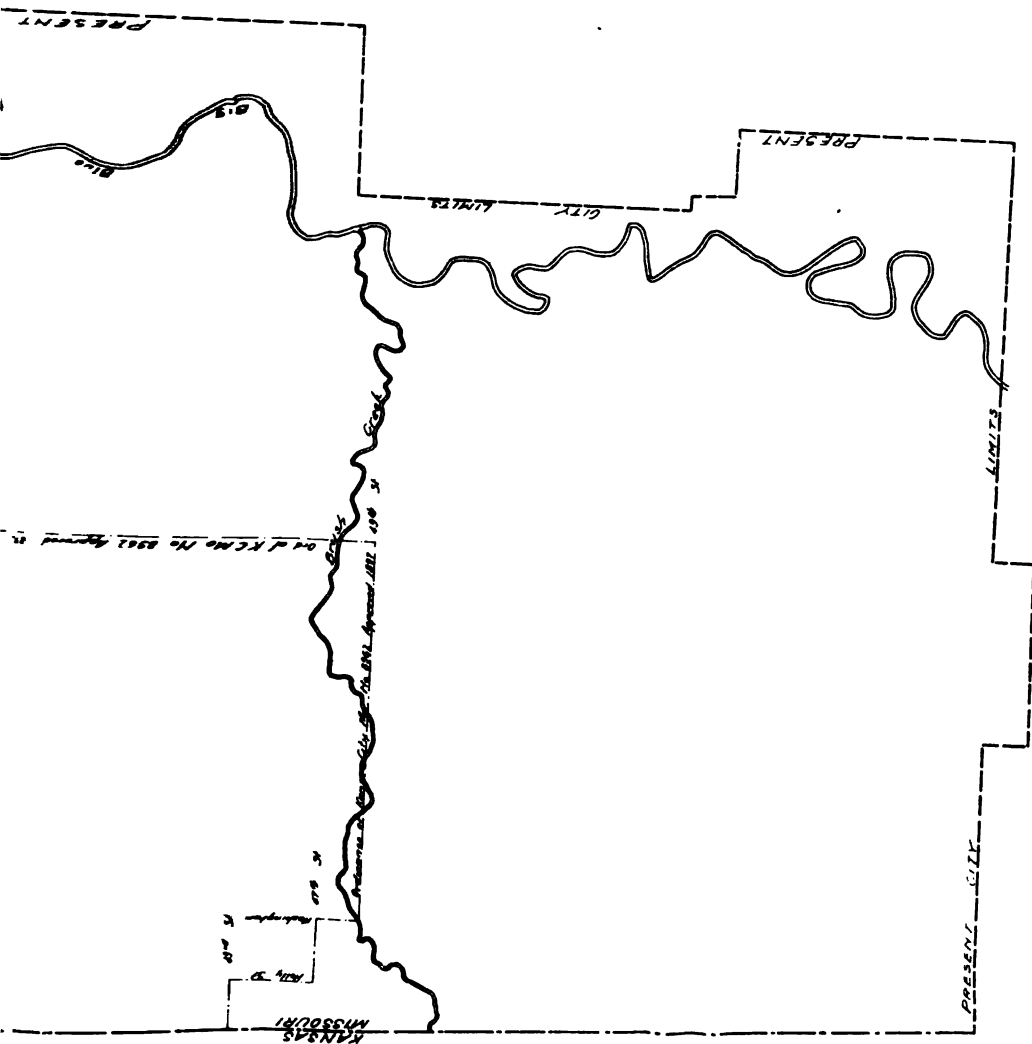
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**EXTENSIONS OF
CITY LIMITS
AT DIFFERENT PERIODS.**

The map illustrates the growth of Cleveland, Ohio, with various streets and landmarks labeled. Key streets shown include Summit St, Franklin St, Broadway St, and others. The map is divided into sections by dashed lines, indicating different periods of city growth. The title "EXTENSIONS OF CITY LIMITS AT DIFFERENT PERIODS." is prominently displayed in the upper left corner.



Introductory Note

HOW CITIES ARE INCORPORATED IN MISSOURI.

The Constitution of 1820 contains no provision in regard to incorporating cities, towns and villages. The statute of 1825 provides that the county court may declare a town or village incorporated upon the petition of at least two-thirds of the taxable inhabitants and defines the powers of such corporations. provision is also made for filing town plats.

The Constitution of 1865 (Article VIII) authorizes the incorporation of cities by special act of the legislature but provides that no city shall be thus incorporated with less than 5,000 permanent inhabitants nor unless the people thereof by a direct vote upon the question shall have decided in favor of such incorporation.

The Constitution of 1875 (Article IX, Section 7) authorizes the General Assembly to provide by general laws for the organization and classification of cities and towns, limits the number of classes to four and provides that the powers of each class shall be defined by general laws so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. In addition to the four classes of cities to be established by the General Assembly, that constitution provides for other classes. Section 16 of Article IX provides that any city having a population of more than 100,000 inhabitants may frame a charter for its own government consistent with and subject to the Constitution and laws of this state. Section 15 of Article IX provides for consolidating the government of such city with that of the county in which it is situated. Kansas City is governed by a special charter, but the city and county governments have not been consolidated.

Sections 20 to 25 of Article IX provide for the adoption of a special charter to become the organic law of the city of St. Louis and for the separation of the city from the residue of St. Louis county. In 1876 the city of St. Louis availed itself of the privileges offered to it by the Constitution.

Legislation. In 1877 the legislature defined the four classes of cities as follows: First class, those containing 100,000 or

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more inhabitants; second class, those containing 20,000 and less than 100,000 inhabitants; third class, those containing 5,000 and less than 20,000 inhabitants; fourth class, those containing 500 and less than 5,000 inhabitants, and all towns existing under any special law and having less than 5,000 inhabitants which shall elect to be cities of the fourth class. An act of 1875 provides that all towns not incorporated and containing less than 500 inhabitants are declared to be villages. The law was amended in 1909 (Laws 1909, p. 142), so that all cities containing more than 75,000 and less than 150,000 inhabitants may become cities of the first class, and was amended in 1885 (Laws of 1885, p. 50), so that the second class comprises cities having 30,000 and less than 100,000 inhabitants and the third class comprises cities having 3,000 and less than 30,000 inhabitants. In 1889 the maximum limit of cities of the fourth class was changed to 3,000 instead of 5,000.

In 1877 the legislature provided that any city or town existing by virtue of the general law, or by any local or special law, may elect to become a city of the class to which its population would entitle it by passing an ordinance and submitting the proposition to its legal voters at an election held for that purpose and if it be ratified by a majority of the voters voting at such election and the mayor issue his proclamation declaring the result of the election such city or town shall, by virtue of such vote, be incorporated in the class to which it belongs. The class shall be determined by the last census taken, whether state or national. Any city or town not incorporated may become incorporated under the class to which its population would entitle it by a declaration of the county court upon petition of a majority of the inhabitants. These provisions have continued with no substantial change to the present time.

The county court may disincorporate towns and may diminish their limits. (Rev. Stat. 1899, Sec. 6055, Amended Laws 1907, p. 109, R. S. Mo. 1909, Sec. 9481.)

In 1887 the General Assembly passed an act designating the manner in which a city having more than 100,000 inhabitants may frame a charter for its own government under Section 16 of Article IX of the Constitution. This act was approved March 10, 1887. (Laws of 1887, pp. 42 to 51, Rev. Stat. of 1899, Secs. 4359 to 6410, R. S. Mo. 1909, Secs. 9703 to 9754, inclusive, pp. 76 to 83, this volume.)

INCORPORATION OF KANSAS CITY.

The organization of a city, town or village within two miles of the limits of any city of the first, second or third class is prohibited by statute. (R. S. Mo. 1899, Sec. 5261, Amended Laws 1907, p. 93, R. S. Mo. 1909, Sec. 8533.)

INCORPORATION OF KANSAS CITY.

Plats and Incorporation by the County Court. The first plat of the Town of Kansas was filed in 1839 and embraced the land from the river to Second Street and from what is now Delaware Street to what is now Grand Avenue. A second plat was filed in 1846 and extended from the river south to what is now Independence Avenue and from what is now Central Street on the west to what is now Oak Street on the east. The plat filed in 1846 shows the filing and acknowledgment by William Gilliss, Fry P. McGee, John C. McCoy, Jacob Regan, Henry Jobe and William B. Evans and was acknowledged April 1, 1846, before Walter Bales, justice of the peace. A third plat filed June 7, 1849, embraces the territory from the river to Independence Avenue and from what is now Central Street on the west to Cherry Street on the east. The filing of these plats conferred no municipal organization upon the town. The few merchants and traders who did business on the site platted as the "Town of Kansas," but locally called "Westport Landing," were without municipal government until the 4th day of February, 1850, when the territory embraced within the plats filed as above mentioned was incorporated by the county court at Independence under the name and style of the Town of Kansas. (County Court Record 8, p. 101.) The first trustees appointed by the county court in that order of incorporation were Madison Walrond, John C. McCoy, Robert Kirkham, Pierre M. Choteau and Hiram M. Northup. They failed to qualify and by another order entered by the county court at Independence on the 3rd day of June, 1850, (County Court Record 8, p. 257) the Town of Kansas was again incorporated with William Gilliss, Madison Walrond, Lewis Ford, Bennoist Troost and Henry H. Brice as trustees.

INCORPORATION BY SPECIAL STATUTE.

Charter of 1853. The City of Kansas was incorporated by a special act of the legislature on the 22nd day of February, 1853. (Laws of 1853, p. 244.) The boundary lines at that time extended from the middle of the Missouri River south to

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about what is now Ninth Street and from Bluff Street on the west to a point between Holmes and Charlotte Streets on the east. This act was amended in 1857 (Laws of 1857, p. 368) and again in 1859 (Laws of 1859, pp. 204, 355 and 306), when the limits were extended by the legislature so that the boundary lines ran as follows: From the middle of the Missouri River south along the state line to Twentieth Street; east on Twentieth Street to Troost Avenue; north on Troost Avenue to Twelfth Street; east on Twelfth Street to Lydia Avenue; thence north to the center of the Missouri River; thence along the channel of the river to the beginning. The act was again amended in 1861 (Laws of 1861, pp. 203 and 411), in 1867 (Laws of 1867, p. 18), in 1868 (Laws of 1868, p. 208), in 1870 (Laws of 1870, p. 327), in 1872 (Laws of 1872, pp. 397 and 414), and in 1873, when the limits were again extended by the legislature to embrace the territory from the channel of the Missouri River south to Twenty-third Street and from the state line to Woodland Avenue. The original act of incorporation was again amended in 1874. (Laws of 1874, p. 320.)

Charter of 1875. In the year 1875 the city passed through one of the most critical phases of its charter history. A crisis had arisen in which the city was on the verge of bankruptcy. Over \$400,000 of taxes were delinquent and unpaid. So doubtful was the city's financial outlook that it was practically impossible to collect taxes from any source whatever. City warrants were reluctantly accepted at forty cents on the dollar and the municipality was expending each year over twice its income. Charter amendments of a character tending to increase the city's financial embarrassment were pending before the state legislature. At this juncture a mass meeting was called at which a board of thirteen citizens was appointed to determine on legislation suitable to the emergency. As a result of their efforts a new charter was granted to the city by a special act of the General Assembly. (Laws of 1875, p. 196.) This committee, inspired with a desire to restore the city's credit at all hazards, devised the simple but effective limitations now found in Articles IV and V of the present charter, which were enacted in the Charter of 1875 and have ever since been preserved in succeeding charters. The adoption of this instrument marked a turning point in the city's history. Immediately upon its passage the city's credit was restored, taxes were

INCORPORATION OF KANSAS CITY.

promptly paid, land values increased and city warrants were accepted at their face value. The board of thirteen was composed of the following citizens: E. H. Allen, E. L. Martin, John C. Gage, Thomas K. Hanna, Dr. T. B. Lester, Peter Soden, John W. Reid, William Warner, Kersey Coates, L. K. Thacher, James E. Marsh, J. A. Bachman and James Nave, chairman. The boundaries were the same as those established by the act of 1873 but were extended in 1885 in pursuance of an act of the General Assembly approved March 11, 1885, (Laws of 1885, p. 63; Rev. Stat. of 1899, Sections 6292 to 6300, Rev. Stat. 1909, 9631 to 9639), so as to include the territory from the middle of the Missouri River to Thirty-first Street and from the state line to Cleveland Avenue. This extension was held to be valid in *Kelly vs. Mecks*, 87 Mo., 396.

The descriptions of the boundaries given above are not the legal descriptions contained in the various charters.

INCORPORATION UNDER SPECIAL CHARTERS.

Charter of 1889. In pursuance of the method designated in the act of the General Assembly approved March 10, 1887, (Laws of 1887, pp. 42-51), Kansas City sought to avail itself of the privilege conferred upon it by Section 16 of Article IX of the Constitution of 1875. A charter was prepared by thirteen freeholders and was submitted to the people of the City of Kansas January 30, 1888, but was not adopted. At an election held December 11, 1888, under the provisions of an ordinance approved October 20, 1888, and an amendment thereto approved November 10, 1888, Frank Askew, Edward L. Scarritt, Gardiner Lathrop, William Dalton, L. E. Irwin, L. E. Wyne, Dennis Finucane, Oliver H. Dean, Hans Peterson, James G. Adkins, William Weston, Frederick W. Schulte and Baxter F. Fullerton were elected as a board of thirteen freeholders to draft a charter for the city. A draft of the charter was prepared and returned to the mayor on March 9, 1889, was submitted to the voters at an election held April 8, 1889, pursuant to an ordinance approved March 11, 1889, was adopted at that election and went into effect on the 9th day of May, 1889.

This charter changed the name from the City of Kansas to Kansas City. No change was made in the boundaries as extended in 1885.

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Amendments to the charter of 1889 were adopted September 23, 1890, February 27, 1892, June 6, 1895, December 2, 1897, and August 4, 1903.

An attempt was made in 1890 to extend the limits to include the city of Westport and adjacent territory. On January 19, 1891, the Supreme Court declared that the extension was invalid because the question was not submitted to the voters of Kansas City. (*Westport vs. Kansas City*, 103 Mo., 141.) The limits were extended by an amendment to the charter adopted December 2, 1897, the boundaries established are shown upon the map at pp. 8 and 9. (Ordinance No. 8962.) This extension was approved by the Supreme Court in *Kansas City vs. Stegmiller*, 151 Mo., 189.

A board of freeholders, elected November 8th, 1904, as provided by law, prepared a charter which was submitted to the people at a special election on the 7th day of March, 1905. This charter failed to receive the required number of votes and was not adopted.

Charter of 1908. In compliance with Section 16, Article IX of the Constitution and Sections 6359 to 6410, Revised Statutes of 1899, Revised Statutes of 1909, Secs. 9703 to 9754, (Enabling Act of 1887, pp. 76, 77, 78, 79, 80, 81, 82, 83 of this volume) and in pursuance of Ordinance No. 38201, approved December 3, 1907, J. V. C. Karnes, Walter J. Bales, William P. Borland, Charles Campbell, F. D. Crahbs, Andrew F. Evans, D. J. Haff, Charles J. Hubbard, R. J. Ingraham, Robert B. Middlebrook, John H. Moore, John H. Thacher and F. W. Tuttle were, at a general election held April 7, 1908, elected as a board of thirteen freeholders to draft a charter for Kansas City and on July 6, 1908, they returned the charter set out in the succeeding pages to Mr. Thomas T. Crittenden, Jr., Mayor of Kansas City. The officers of the board of freeholders were J. V. C. Karnes, president, and J. W. S. Peters, secretary. This charter was submitted to the voters of Kansas City for adoption at an election held on the 4th day of August, 1908, and all of it except Section 30 of Article IV was ratified by more than four-sevenths of the voters voting at that election. The first alternative contained in said Section 30, which provided for a recall of elective officers, was approved by four-sevenths of the voters voting on that section but less than four-sevenths of those voting at the charter election. (See Art. IV, Sec. 30 and note.) This charter was

RELATION OF CITY TO STATE.

filed for record in the office of the Recorder of Deeds for Jackson County, Mo., at Kansas City, August 20, 1908, is recorded in Book B 1172, pp. 20 to 305, and went into effect on the 4th day of September, 1908. (Constitution, Art. IX, Sec. 16; *Morrow vs. Kansas City*, 186 Mo., 675; *Kansas City vs. Bacon*, 147 Mo., 1. c. 267; *Jaicks vs. Merrill*, 201 Mo., 1. c. 97.) Section 30 of Article IV is not found in the recorded copy. The boundaries were extended by an amendment of the charter adopted April, 6, 1909, and the corporate limits defined in Sec. 2 of Art. 1, were established.

RELATION OF CITIES TO STATE.

A municipal corporation is a subordinate branch of the domestic government of a state with political and legislative powers for the local civil government and police regulations of the inhabitants of the particular district included in the boundaries of the incorporation. (*Kansas City vs. Vineyard*, 128 Mo., 75, 1. c. 81.)

"Counties are geographical subdivisions of the state, with no legislative functions, while the city is a municipal government, with authority to legislate for itself." (*City of Kansas vs. Ry. Co.*, 81 Mo., 285, 1. c., 291. See *Hannon vs. St. Louis County*, 62 Mo., 313.) Voters in all cities and towns, except St. Louis, act in common with the voters of the county or counties in which they may be located in electing county or state officials and cities do not, simply because of their incorporation, become subdivisions of the state. Kansas City is not a subdivision of Jackson County nor of the state. (*Kansas City vs. Neal*, 122 Mo., 232, 1. c. 235; *City of Tarkio vs. Loyd*, 179 Mo., 600, 1. c. 604, and cases there cited.)

STATUS OF KANSAS CITY UNDER THE CHARTERS.

Kansas City does not fall within any of the legislative classifications of cities. At present it is the only city within the classification of Section 16 of Article IX of the Constitution. (*Kansas City vs. Stegmiller*, 151 Mo., 189, 1. c. 204.) When the first freeholders' charter went into effect on the 9th of May, 1889, it superseded the existing charter, granted by the General Assembly, and all amendments to it and all laws pertaining to matters within the domain of purely municipal government and relating to purely local municipal affairs.

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(*Kansas City vs. Bacon*, 147 Mo., 259, 1. c. 270.) The power to frame a freeholders' charter was not exhausted by being once exercised. Nor is it limited to amendments. It is a continuing power, and on the 4th day of September, 1908, the present charter superseded the charter of 1889 and all amendments to it with like effect. (*Morrow vs. Kansas City*, 186 Mo., 675.) "A charter is the organic law of a city in this state, whether it emanate from the General Assembly, or is framed and adopted by the people of the municipality by authority of the Constitution. Being a law for the government of the municipality, it is binding upon all courts, and it violates no principle of our government to say that the courts, when called upon, must enforce these municipal laws unless they conflict with the Constitution or are not in harmony with the Constitution and laws. (*Kansas City vs. Marsh Oil Co.*, 140 Mo., 458, 1. c. 471; *St. Louis vs. DeLassus*, 205 Mo., 578, 1. c. 585; *St. Louis vs. Liesing*, 190 Mo., 464, 1. c. 480.)

The power of legislation conferred upon municipal corporations to regulate and manage their local affairs in conformity to ordinances adopted by themselves is no infringement upon the maxim that legislative power cannot be delegated. (*Morrow vs. Kansas City*, 186 Mo., 675, 1. c. 683, and cases there cited; *Sluder vs. Transit Co.*, 189 Mo., 107, 1. c. 128.)

Powers Not Conferred by Charter. But it is not every power that may be essayed to be conferred on the city by such a charter that is of the same force and effect as if it were conferred by an act of the General Assembly, because the Constitution does not confer on the city the right, in framing its charter, to assume all the powers incident to its municipality, yet the legislature may, if it should see fit, confer on the city powers not necessary or incident to the city government. There are governmental powers the just exercise of which is essential to the happiness and well being of the people of a particular city, yet which are not of a character essentially appertaining to the city government. Such powers the state may reserve to be exercised by itself, or it may delegate them to the city, but until so delegated they are reserved. Nor does the Constitution confer unlimited power on the city to regulate, by its charter, all matters that are strictly local, for there are many matters local to the city, requiring governmental regulations, which are foreign to the scope of municipal government. In none of

STATUS OF CITY UNDER CHARTER.

the cases that have been before the Supreme Court, bringing into question the charters of St. Louis and Kansas City under the Constitution of 1875, have they given to this constitutional provision any broader meaning than above indicated. (St. Louis vs. Bell Tel. Co., 96 Mo., 623; State, *ex rel.* vs. Field, 99 Mo., 353; Kansas City, *ex rel.* vs. Scarritt, 127 Mo., 642; State, *ex rel.* Subway Co. vs. St. Louis, 145 Mo., 551; Kansas City vs. Stegmiller, 151 Mo., 189; Young vs. Kansas City, 152 Mo., 661; State, *ex rel.* vs. Telephone Co., 189 Mo., 83, l. c. 99 and 100; State, *ex rel.* vs. Gates, 190 Mo., 540, l. c. 557; State vs. Kessels, 120 Mo. App., 233.) In the Telephone Company case the court held that Kansas City did not have the right to regulate telephone charges under the provisions of the Constitution or the Enabling Act of 1887, but held further that the legislature could confer that power upon the city. In a separate opinion, concurring in the result but dissenting from the reasoning of the majority opinion, Judge Marshall held that the General Assembly could not confer upon the city the right to regulate the rates charged by public service corporations.

The legislature conferred the power to regulate rates charged by public utilities in 1907. (Laws of 1907, p. 119, R. S. Mo. 1909, Secs. 9568, 9569, 9570, pp. 88, 89 of this volume.)

Charter and Ordinances Must Conform to Constitution.

"The charter rights of Kansas City cannot exceed the power of the people of the state through their legislature." Neither the acts of the General Assembly of the state nor the charter nor the ordinances of a city can deprive a man of his day in court. (Paving Co. vs. Ridge, 169 Mo., 376, l. c. 387.) In Abbott vs. Lindenbower, 42 Mo., 162, the court held that the state legislature could not make a tax deed conclusive evidence of the recitals contained in it. In Barber Asphalt Paving Co. vs. Ridge, 169 Mo., 376, l. c. 386, the court said: "In attempting to deprive an abutting property owner of his right to plead a lawful defense to a suit to enforce the lien of a tax bill against his property because he had not filed a written statement of his defenses before the board of public improvements within sixty days after said tax bill was issued, the framers of the charter, and the people who adopted it, transgressed the lines marked out for them in the organic law of the state." This case was followed and approved in State, *ex rel.* vs. Smith, 177 Mo., 69, in Paving Co. vs. Munn, 185 Mo., 552, in Construction Co.

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vs. Coal Co., 205 Mo., 49, and other cases. For a discussion of when a constitutional question is involved, see *State, ex rel. vs. Smith, supra*.

Charter and Ordinances Must Be in Harmony With Laws of State. It was not the intention of the framers of the Constitution to create a sovereignty and deny to the state the right of control. As to subjects which bear upon their relation to the state government, the General Assembly can, by a general law, provide for the government of charter cities and all charter provisions and ordinances must be in harmony with and subject to the Constitution and laws of the state. (Constitution, Art. IX, Sec. 16; *Ewing vs. Hoblitzelle*, 85 Mo., 64, l. c. 76; *State, ex rel. Kansas City vs. Field*, 99 Mo., 352, l. c. 356 and 357; *Kansas City, ex rel. vs. Scarritt*, 127 Mo., 642, l. c., 650 and 651; *Kansas City vs. Stegmiller*, 151 Mo., 189, l. c. 204; *Kansas City vs. Marsh Oil Company*, 140 Mo., 458, l. c. 467; *State, ex rel. vs. McCammon*, 111 Mo. App., 626; *St. Louis vs. Meyer*, 185 Mo., 583; *State vs. Tower*, 185 Mo., 79.)

Ordinances must be in harmony with the laws of the state. (*City of Linneus vs. Dusky*, 19 Mo. App., 20; *St. Louis vs. Packing Co.*, 141 Mo., 375; *Paris vs. Graham*, 33 Mo., 94; *In re Dunn*, 9 Mo. App., 255; *Kansas City vs. Hallett*, 59 Mo. App., 160; *Carpenter vs. Reliance Realty Co.*, 103 Mo. App., 480; *St. Louis vs. Galt*, 179 Mo., 8, l. c. 18; *St. Louis vs. Klausmeier*, 213 Mo., 119, l. c. 130.)

Public corporations are called into being at the pleasure of the state. The same voice which speaks them into existence may speak them out. Such corporations are the auxiliaries of the government in the important business of municipal rule and cannot have the least pretension to obtain their privilege or their existence upon anything like a contract between them and the legislature. When the state, however, does create such agency, and through it contracts with a third person, whereby rights become vested in such person, it is then beyond its power to divest them; for, such contract is *pro hac vice* the contract of the state, the obligation of which it cannot impair. (*St. Louis vs. Russell*, 9 Mo., 507, l. c. 512; *Forsythe vs. Hammond*, 166 U. S., 505; *Graham vs. Folson*, 200 U. S., 248; *State, ex rel. Attorney General vs. Miller*, 66 Mo., 328, l. c. 342.) It was never intended by the constitutional provisions that the municipality should rise higher than the fountain head. When a gen-

STATUS OF CITY UNDER CHARTER.

eral state law is, in any of its provisions, in conflict with a charter provision the law prevails over the charter in obedience to the mandates of the Constitution. (Ewing vs. Hobletzelle, 85 Mo., 64, l. c. 77.) "The law making power of the state covers a broader field and proceeds to enact such general laws upon subjects about which it has the right to legislate, and municipalities must take notice of such legislation, and whenever their charter provisions conflict with such general laws, it is not essential that the legislature should repeal such charter provisions or in any way give expression of its disapproval of them; but it is simply the plain duty of the municipalities to see that their charter provisions are in harmony with the Constitution and laws of this state, otherwise they are inoperative and of no force and vitality." (State, *ex rel.* vs. Stobie, 194 Mo., 14, l. c. 61; State, *ex rel.* Zeigenhein vs. Railroad, 117 Mo., 1, l. c. 11 and 12.)

Mere differences in details do not render such laws inharmonious. So long as Kansas City, under its special charter, does not invade the province of general legislation, or attempt to change the policy of the state as declared in her laws for the people at large, its action will not be out of harmony with such laws, notwithstanding the provisions of the special charter may be different from the general statutes prescribed for the government of other cities in their local affairs. (Kansas City vs. Marsh Oil Company, 140 Mo., 458, l. c. 471 and 472; St. Louis vs. Liessing, 190 Mo., 464, l. c. 480; Grand Avenue Ry. Co. vs. Citizens Ry. Co., 148 Mo., 665, l. c. 671; St. Louis vs. Western Union Telegraph Company, 149 U. S., 465, l. c. 467; City of St. Louis vs. Fischer, 167 Mo., 654, l. c. 660, s. c. 194 U. S., 361; State, *ex rel.* vs. Telephone Company, 189 Mo., 83, l. c. 99; State, *ex rel.* vs. Gates, 190 Mo., 540, l. c. 557.)

Section 6258, Revised Statutes 1899, Revised Statutes 1909, Sec. 9582 provides that any municipal corporation in this state, either under general or special charter, having authority to pass ordinances regulating subject matters and things upon which there is a general law of the state, unless otherwise prescribed or authorized by some special provision of charter, shall confine and restrict its jurisdiction and the passage of its ordinances to and in conformity with the state law upon the same subject.

If the state, by a general enactment of the legislature, has manifested a policy the city is restricted to the exercise of only

INTRODUCTORY NOTE.

such jurisdiction as is consistent with and in harmony with the policy of the state so manifested and ordinances of the city must not be repugnant to the legislative policy of the state so manifested by its general enactment. This general law is applicable to every citizen of the state and its force and vitality cannot be limited by municipal authority. Matters of purely municipal and local concern the Constitution intended to commit to local self-government.

The regulation and licensing of peddlers and hawkers is not a subject that can be limited to one of strictly municipal concern. It is one in which the people of the entire state have an interest and is a subject to which general legislation may be directed, and when the state speaks upon the subject by general enactment, its force and vitality are not limited to any particular locality. The General Assembly has undoubted power to legislate for all cities in the full exercise of police power of the state as well as to enforce direct mandates of the fundamental law by appropriate statutes and to pass all proper laws that are general throughout the state. (*St. Louis vs. Meyer*, 185 Mo., 583.)

In *Stotler vs. Railway*, 200 Mo., 107, l. c., 121, the court recognizes the authority of the General Assembly to declare that the violation of a reasonable ordinance regulating speed shall not be negligence *per se*.

The word "exclusive" as used in the statute giving the city exclusive control of its streets must be understood as subject to the control of the state whenever the state chooses to assume control. The constitutional grant of power under which the charter is formed says that it must always be subject to the Constitution and laws of the state, which the Supreme Court interprets to mean that in all matters not appertaining to city government the charter is subordinate to the will of the General Assembly. The legislature in conferring upon the city the exclusive control of its streets meant exclusive control for the purpose of a city government, not to the exclusion of the state in other matters. (*State ex rel. vs. Telephone Co.*, 189 Mo., 83, l. c., 101-102; *Willis vs. A. T. & S. F. Ry. Co.*, 133 Mo. App., 625, appears to be in conflict with this case.)

Power over streets is in the nature of a trust and the state has visitatorial power to correct breach of trust or abuse of power by an action through the prosecuting attorney or attorney

STATUS OF CITY UNDER CHARTER.

general. (State vs. Franklin, 133 Mo. App., 486; State *ex rel.* vs. Vandalia, 119 Mo. App., 406.)

Authority of City to Create a Right of Action.—In *Holwerson vs. Ry. Co.*, 157 Mo., 218, 1. c. 246, Div. 1 of the Supreme Court said: "The city cannot by ordinance create a right of action between third persons, nor enlarge the common law or statutory liability of citizens *inter se*." Such laws must emanate from the legislature in whom alone such power is vested by the Constitution, but the city may create a contractual relation which may be taken advantage of by a private person. This action was based upon an ordinance regulating the operation of trains and street cars in the streets of the city. At the same term of the Supreme Court in which the *Holwerson* case was decided by division number one, division number two decided the case of *Jackson vs. Ry.*, 157 Mo., 621, in which it was held that ordinances regulating the speed of trains of cars are police regulations and have the same force and effect as legislative acts and that actions for damages sustained by reason of their violation may be maintained even though the railroad company against which the action may be brought never contracted to be responsible for such damages. The *Jackson* case is approved in *Ford vs. Kansas City*, 181 Mo., 137, and *Sluder vs. Transit Co.*, 189 Mo., 107, which cases overruled the *Holwerson* case and all cases there cited that were based upon ordinances regulating the operation of cars. The *Sluder* case was approved by the court *in banc* in *McHugh vs. St. Louis Transit Co.*, 190 Mo., 85, 1. c. 96, in which the court said that the question must be considered finally settled. (*Rapp vs. Transit Co.*, 190 Mo., 144, 1. c., 153; *Eckhard vs. Transit Co.*, 190 Mo., 593, 1. c. 620.) So that it is now established that a person injured by the operation of street cars or trains of cars in violation of a reasonable ordinance may recover in a suit based upon the ordinance. The *Sluder* case has been approved in a number of other cases. It may be said in passing that the acts complained of in these cases are akin to common law negligence.

The city cannot impose upon any person a liability, either to a person injured or to the city, for a failure to keep sidewalks in a safe condition. But the city has a right to impose a fine for such failure. (*St. Louis vs. Insurance Co.*, 107 Mo., 92; *Norton vs. St. Louis*, 97 Mo., 537; *Baustain vs. Young*, 152 Mo., 317; *Ford vs. Kansas City*, 181 Mo., 137.) If a person is instrumental in causing the dangerous condition he may be jointly liable with the

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city for damages arising out of it. (*Reedy vs. Brewing Association and St. Louis*, 161 Mo., 523, and many other cases.)

Ordinances Concurrent With State Laws.—"The fact that an existing state law provides a remedy does not prevent a municipal corporation from enacting another remedy as to a municipal matter, if it has the power to so enact given it by its charter, either in express terms or by necessary implication from the powers conferred." (*Hill vs. St. Louis*, 159 Mo., 159, l. c. 167.)

"It is the well settled law of this state that municipal corporations may, by ordinance, prohibit acts which are made misdemeanors under the general statutes of the state; and for a violation of such ordinances, the city may maintain a proceeding in its own name to impose and collect a fine." (*St. Louis vs. Schoenbusch*, 95 Mo., 618.) "Merely because the city did not make its ordinance as broad as the statute did not render it so inconsistent as to make it void. It could have made its ordinances as broad as the statute and in no wise conflicted with the Constitution or general laws of the State. (*St. Louis vs. DeLassus*, 205 Mo., 578, l. c. 584.) Where the State makes regulations the city cannot require a higher standard than is made by the State. (*St. Louis vs. Klausmeier*, 213 Mo., 119; *City of St. Louis vs. Bentz*, 11 Mo., 61; *City of St. Louis vs. Cafferata*, 24 Mo., 94; *State vs. Cowan*, 29 Mo., 330; *City of Independence vs. Moore*, 32 Mo., 392; *Ex parte Hollwedell*, 74 Mo., 395; *State, ex rel. vs. Walbridge*, 119 Mo., 383, l. c. 393; *St. Louis vs. DeLassus*, 205 Mo., 578, l. c. 584; *St. Louis vs. Schoenbusch*, 95 Mo., 618; *City of DeSoto vs. Brown*, 44 Mo. App., 148; *Manker vs. Faulhaber*, 94 Mo., 430; *Ex parte Kiburg*, 10 Mo. App., 442; *Kansas City vs. Hallett*, 59 Mo. App., 160; *State vs. Noland*, 111 Mo., l. c. 484; *State, ex rel. vs. Slover*, 113 Mo., 202; *State vs. Muir*, 164 Mo., 610; *State vs. Gustin*, 152 Mo., 108; *Canton vs. McDaniel*, 188 Mo., 207.)

Police Department.—Laws providing a metropolitan police system for large cities, are based on the elementary proposition that the protection of life, liberty and property and the preservation of the public peace and order in every part, division and sub-division of the State, is a governmental duty which devolves upon the State and not upon its municipalities any farther than the State in its sovereignty may see fit to impose it on or delegate it to the municipalities. The right to establish the peace and order of society is an inherent attribute of government, whatever its form, and is co-

STATUS OF CITY UNDER CHARTER.

extensive with the geographical limits thereof, and touching every part of its territory.

From this duty existing in the very nature of State government flows the corresponding power to impose upon municipalities of its own creation a police force of its own creation, and to compel its support out of the municipal funds. It is almost universally conceded that police boards and metropolitan police forces are State officers and fall clearly within legislative control. (State, *ex rel.* vs. Mason, 153 Mo., 23, 1. c. 44 and 45.)

But for some purposes they are also city officers. (Carrington vs. St. Louis, 89 Mo., 208; State, *ex rel.* vs. St. Louis, 174 Mo., 125.)

Acts of the General Assembly in regard to the police force of Kansas City are superior to and supersede the charter provisions on the same subject. The right to discharge a policeman is governed by the State statute and not by the charter. (State, *ex rel.* vs. Police Commissioners of Kansas City, 184 Mo., 109, 1. c. 133 and 134.) Police officers are without authority to arrest offenders outside of the city for offences committed outside of the city, Marshall and Valliant dissenting. (State, *ex rel.* vs. Stobie, 194 Mo., 14, 1. c. 61.)

Authority of City to Regulate Court Practice and Proceedings.—The city has not authority to regulate practice and proceedings in the courts of this state in ordinary common law actions against the city, or against the city and others. Where the charter and the statutes of the State are in conflict in regard to a matter of practice or procedure the statutes of the State must prevail. (Badgley vs. St. Louis, 149 Mo., 122, 1. c. 129.) In that case a charter provision that those jointly liable with the city for an act of negligence must be made parties to a suit against the city was held invalid.

But the city may regulate the practice and proceedings in regard to purely municipal matters.

Grading.—In State, *ex rel.* vs. Field, 99 Mo., 352, the question presented was whether the procedure in grading streets provided by the act of the legislature or that provided by the charter should be followed. The court said: "Both the charter and this act of the legislature, as amended, point out the procedure for the assessment of damages and benefits in such cases, but they are so different that the court in following one must, of necessity, disregard

INTRODUCTORY NOTE.

and exclude all considerations of the other." The court said further: "This matter of assessing damages and benefits for grading and re-grading streets naturally falls within the domain of municipal government." Held, that the statute was superseded by the charter.

Condemnation.—In *Kansas City vs. Marsh Oil Co.*, 140 Mo., 458, it was held that the charter provision in regard to the procedure in exercising the right of eminent domain superseded the statute on the subject. (*Brunn vs. Kansas City*, 216 Mo., 108.)

Special Assessments.—The right of the city to provide the method to be followed and the notice that shall be given where special assessments are contemplated has been approved. "When a tax is to be assessed in proportion to benefits, the apportionment is a quasi-judicial proceeding in which, at some stage, the owner has the right to be heard upon the question of the amount to be assessed against his property, before a charge therefor finally attaches thereto for its payment, and to notice, not necessarily judicial in its character, but such as is appropriate to the nature and character of the proceeding, of his right to be so heard, nor need such notice be personal." (*St. Louis vs. Ranken*, 96 Mo., 497, l. c. 505.)

Notice and Publication.—The legislative authority of the State may prescribe what the manner of the notice shall be; and when the statute provides for such notice and hearing, its terms must be complied with in order to a valid assessment, and when the assessment is made in conformity with such requirements it is final, conclusive and binding. *Egyptian Levee Co. vs. Hardin*, 27 Mo., 495; *Newby vs. Platte County*, 25 Mo., 258; *Garrett vs. City of St. Louis*, 25 Mo., 505; *Cooley Const. Lim.*, 497, 505; *Cooley on Tax*, (2 Ed.) 637, Sec. 5, *et seq.*, and 653, Sec. 6, *et seq.*, and notes; *In re DePeyster*, 80 N. Y., 565; *In re Zboworski*, 68 N. Y., 88; *People vs. Smith*, 21 N. Y., 595; *Pearson vs. Zable*, 78 Ky., 170; *Holt vs. City Council of Somerville*, 127 Mass., 408; *Reclamation District vs. Evans*, 61 Cal., 104; *McMillen vs. Anderson*, 95 U. S., 37; *Davidson vs. New Orleans*, 96 U. S., 97; *Hagar vs. Reclamation District*, 111 U. S., 701; *Kentucky Railroad Tax Cases*, 115 U. S., 321; *Spencer vs. Merchant*, 125 U. S., 345; *Lent vs. Tillson*, 72 Cal., 404; s. c. 19 A. & E. Corp. Cases, 640."—(*City of St. Louis vs. Ranken*, 96 Mo., 497, l. c. 506.)

No notice is required by the Constitution to be given property owners respecting those matters which the legislature itself determines or delegates to the municipal authorities. (*Meier vs. St. Louis*, 180 Mo., 391.) Publication of notice to the property owners

STATUS OF CITY UNDER CHARTER.

and opportunity to be heard before the tribunal upon which is devolved the duty of ascertaining facts and acting therein in the special assessment procedure is due process of law as to those matters to be passed upon by such tribunal. (*Meier vs. St. Louis*, 180 Mo., 391, l. c. 409.) And it is not necessary that name of property owner be set out in notice. (*Kansas City vs. Ward*, 134 Mo., 172.) In *Kansas City vs. Mastin*, 169 Mo., 80, l. c. 92, it was held that a publication notice could be properly published in the paper doing the city printing although it was not the newspaper with which the Circuit Court had contracted for legal notices under the general statute.

Appeals.—In *Stevens vs. Kansas City*, 146 Mo., 460, it was held that the provision of the Kansas City charter providing for appeals from a judgment of its police court to the criminal court of Jackson county was valid.

Motion for new trial and bill of exceptions must be filed in condemnation cases, and failure to file them in time prescribed by general law presents only record proper for review on appeal. (*Kansas City vs. Mastin*, 169 Mo., 80).

Judicial Control Common Council.—"It is not within the power of the judiciary to enjoin the General Assembly from passing a proposed statute or compel it by mandamus to do so. And to the extent that the Common Council of Kansas City is clothed with a legislative power under authority of the state, it is, in the exercise of that power, as free from control by the judiciary as the General Assembly itself. In the exercise of their legislative powers they are not subject to judicial control, but in the exercise of their ministerial or administrative powers they have no such exemption. Nor does an act of a Common Council, after its passage, even though it be strictly legislative in its character, stand on exactly the same plane as an act of the General Assembly, for that, whereas, the validity of an act of the General Assembly cannot be impeached in a court on the ground that its passage was obtained by fraud or corrupt influence, yet an ordinance may be so assailed. (*Knapp, Stout & Co. vs. St. Louis*, 156 Mo., 353; *Barber Asphalt Co. vs. French*, 158 Mo., 534, l. c. 547.)" (*State, ex rel. vs. Gates*, 190 Mo., 540.)

Judicial and Public Notice of Charter and Ordinances.—Section 16, of Article IX, of the Constitution requires courts to take judicial notice of charter and city's incorporation. (*Walsh vs. Missouri Pacific Ry. Co.*, 102 Mo., l. c. 589; *St. Louis vs. Lang*, 131

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Mo., 412, l. c. 420; State vs. Nolle, 96 Mo. App., 524, l. c. 526.) And courts will take judicial notice of extent and limits of territory included in city. (R. S., 1899, Sec. 6399; Kansas City vs. Vineyard, 128 Mo., 75; Kansas City vs. Block, 175 Mo., 433.)

A charter is a public act of which all persons interested are bound to take notice. (Perkinson vs. St. Louis, 4 Mo. App., 322, l. c. 328.)

The court will not take judicial notice of ordinances. A party relying on them must plead them. (St. Louis vs. Liessing, 190 Mo., 464, l. c. 491; St. Louis vs. Roche, 128 Mo., 541, l. c. 544; City of Tarkio vs. Loyd, 179 Mo., 600, l. c. 605.)

Courts will take judicial notice of population of cities in this State according to the last enumeration of the inhabitants thereof, State, Federal or municipal. (R. S. 1899, Sec. 6373; R. S. 1909, Sec. 9717; State, *ex rel.* vs. Dolan, 93 Mo., 467; State vs. Anslinger, 171 Mo., 600, l. c. 610; State, *ex rel.* vs. Miller, 100 Mo., 439, l. c. 450.)

Official Register

**FROM THE INCORPORATION OF THE CITY IN 1853 TO 1909,
INCLUSIVE.**

Compiled from the Official Rolls in the Custody of the City Comptroller.

OFFICIAL REGISTER.

From the Incorporation of the City in 1853 to 1909, Inclusive.

1853.

Councilmen.

Johnston Lykins, President.
Milton J. Payne.
*W. G. Barclay.
T. H. West.

†T. L. Wright.
Wm. J. Jarboe.
†J. C. McNees.

*Seat vacated. †Elected in place of Thompson McDaniel, who never qualified.
†Elected in place of Barclay.

City Officers.

Mayor.....*Wm. S. Gregory
".....(acting) Johnston Lykins
Treasurer.....*P. M. Chouteau
".....H. M. Northrup
Assessor.....G. W. Wolf
Marshal.....*M. B. Hedges
".....G. W. Wolf

Register.....*John W. Ammons
".....†S. W. Bouton
".....John Curtis
Wharf Master.....Hollom Rice
Tax Collector.....Hollom Rice
City Attorney.....Judge Nelson

*Resigned before expiration of term.

†Office vacated.

1854.

Councilmen.

B. Troost, President.
J. C. McNees.
M. J. Payne.

Caleb R. Kerr.
T. H. West.
Daniel Edington.

City Officers.

Mayor.....Johnston Lykins
Marshal.....J. P. Howe
Register.....*John Curtis
".....W. G. Barclay
Treasurer.....H. M. Northrup
Attorney.....*John Curtis

Attorney.....Asa Bartlett
Wharf Master.....Hollom Rice
Street Commissioner.....Hollom Rice
Assessor.....J. P. Howe
Tax Collector.....J. P. Howe

*Resigned before expiration of term.

1855.

Councilmen.

John W. Ammons, President.
Caleb R. Kerr.
T. J. Wilson.

Alexander T. Gilham.
J. C. McNees.
John S. Campbell.

S. W. Bouton, Clerk.

City Officers.

Mayor.....*John Johnson
".....M. J. Payne
Treasurer.....E. R. Threlkeld
Register.....*M. J. Payne
".....S. W. Bouton

Marshal.....J. P. Howe
Attorney.....Asa Bartlett
Engineer.....Fred Brekenridge
".....C. C. Spaulding
Assessor.....J. W. Summers

*Resigned.

OFFICIAL REGISTER.

1856.

Councilmen.

| | |
|---------------------------------|----------------------|
| Alexander T. Gilham, President. | †John S. Campbell. |
| Caleb R. Kerr. | *M. B. Hedges. |
| T. J. Wilson. | W. J. Jarboe. |
| John Johnson. | S. W. Bouton, Clerk. |
| *Elected in place of Campbell. | †Moved out of ward. |

City Officers.

| | |
|--------------------------------|---------------------------|
| Mayor.....M. J. Payne | Marshal.....J. P. Howe |
| Treasurer.....E. R. Threlkeld | Assessor.....J. P. Howe |
| Register.....S. W. Bouton | Attorney.....S. W. Bouton |
| Engineer.....Robt. J. Lawrence | |

1857.

Councilmen.

| | |
|-------------------------------|-----------------------|
| William J. Jarboe, President. | Isaac M. Ridge. |
| R. T. Van Horn. | *Alexander T. Gilham. |
| Robert J. Lawrence. | †Daniel J. Williams. |
| Michael Smith. | |

[August 17, 1857, all the council resigned and the following were elected:]

| | |
|--------------------------|-------------------|
| T. B. Lester, President. | I. M. Ridge. |
| John Johnson. | John A. Boarman. |
| James A. Frame. | W. J. Jarboe. |
| S. W. Bouton, J. | S. Hough, Clerks. |

City Officers.

| | |
|--|------------------------------|
| Mayor.....M. J. Payne | Attorney.....Wm. A. Strong |
| Treasurer.....E. R. Threlkeld | Register.....*S. W. Bouton |
| Engineer.....†Chas. P. Wiggins | ".....*John S. Hough |
| ".....Edmond O'Flaherty | ".....S. W. Bouton |
| Marshal.....*J. P. Howe | Collector.....F. M. Barnes |
| ".....D. L. Shouse | Assessor.....S. W. Bouton |
| *Resigned before the expiration of term. | †Elected in place of Gilham. |
| †Removed. | |

1858.

Councilmen.

| | |
|--------------------------|----------------|
| T. B. Lester, President. | John S. Hough. |
| John W. Ammons. | George W. See. |
| Charles Long. | Michael Smith. |
| J. W. Robinson, Clerk. | |

City Officers.

| | |
|------------------------------|--------------------------------|
| Mayor.....M. J. Payne | Treasurer.....*E. R. Threlkeld |
| Register.....*J. W. Robinson | ".....J. A. Boarman |
| ".....L. B. Scott | Engineer.....J. Q. Anderson |
| Assessor.....Lott Coffman | Marshal.....F. M. Barnes |
| ".....Jas. A. Gregory | Attorney.....J. W. Robinson |
| Collector.....D. L. Shouse | Wharf Master.....S. M. Gilham |
| *Resigned. | |

OFFICIAL REGISTER.

1859.

Councilmen.

N. C. Claiborne, President.
*E. M. McGee.
T. S. Case.

L. A. Schoen.
J. B. Higgins.
E. B. Cravens.
Daniel Gary, Clerk.

City Officers.

| | | | |
|----------------|------------------|--------------------------|---------------------|
| Mayor..... | M. J. Payne | Assessor..... | S. W. Bouton |
| Treasurer..... | J. A. Boarman | Street Commissioner..... | S. S. Ralls |
| Collector..... | *D. L. Shouse | Wharf Master..... | S. M. Gilham |
| "..... | S. D. Vaughan | Wharf Register..... | W. D. Pollard |
| Register..... | Daniel Gary | Recorder..... | *John W. Summers |
| Attorney..... | John W. Robinson | "..... | L. S. Boling |
| Engineer..... | J. Q. Anderson | Marshal..... | Jonathan Richardson |

*Resigned.

1860.

Councilmen.

Lott Coffman, President.
*W. V. Pulliam.
John Campbell.
W. J. Jarboe.
J. Lykins.
*W. W. Ford.

D. A. N. Grover.
D. M. Jarboe.
A. L. Harris.
Dennis O'Brien.
A. S. Lyons.
C. C. Spaulding, Clerk.

City Officers.

| | | | |
|-----------------------|-----------------|------------------------------------|---------------------|
| Mayor..... | G. M. B. Maughs | Collector..... | S. D. Vaughan |
| Engineer..... | C. L. DeHam | Assessor..... | J. K. Stark |
| Wharf Master..... | J. E. Jewell | Register..... | Daniel Geary |
| Wharf Register..... | Thomas Oliver | Marshal..... | Jonathan Richardson |
| Street Commissioner.. | C. W. Winslow | Attorney..... | John W. Robinson |
| Market Master..... | *W. V. Pulliam | Recorder..... | J. W. Summers |
| "..... | F. F. Beddoe | Inspector of Weights and Measures, | |
| Treasurer..... | J. A. Boarman | | W. V. Pulliam |

*Resigned.

OFFICIAL REGISTER.

1861.

Councilmen.

(To Jan. 4, 1862.)

| | |
|--|--|
| 1st Ward—†A. L. Harris, President; †D. A. N. Grover, B. M. Jewett. | 2d Ward—†N. Vincent, *P. Shannon, †Chas. Long. |
| | 3d Ward—M. J. Payne, †J. E. Snyder, †J. Lykins. |

J. P. Thomas, Clerk.

*Resigned.

†Seats declared vacated by proclamation of his Honor, the Mayor. Election to fill vacancies ordered.

Councilmen.

(From Jan. 4, 1862.)

| | |
|---|---|
| 1st Ward—A. L. Harris, Dennis O'Brien, John Kaney. | 3d Ward—M. J. Payne, President; Thos. Burke, P. C. Causey. |
| 2d Ward—Chas. Dwyer, Pierce Blake, Pete Miller. | |

J. P. Thomas, Clerk.

City Officers.

| | |
|----------------------------------|---------------------------------------|
| Mayor.....R. T. Van Horn | Wharf Master.....Richard Ryan |
| Treasurer.....†J. A. Boorman | Wharf Register.....Thos. Oliver |
| ".....J. S. Heald | Register.....Michael Smith |
| Collector.....S. D. Vaughan | Engineer.....E. O'Flaherty |
| Assessor.....E. O'Flaherty | Marshal.....*Geo. F. Irvin |
| Attorney.....J. S. Boorman | ".....Wm. Holden |
| Recorder.....G. W. Toler | Wharf Register.....John Joyce |
| Market Master.....W. D. Clark | Ins. of Wts. and Meas....H. R. Seguin |
| †Office vacated. *Resigned. | |

1862.

Councilmen.

| | |
|--|---|
| 1st Ward—M. Diveley, President; *Joshua Thorne, E. M. Sloan. | 3d Ward — Thomas Burke, Peter Schwitzgabel, *Nelson Jen- nings. |
| 2d Ward—J. R. Ham, John Kaney, L. Deardorff. | C. W. Sloan, Clerk. |

City Officers.

| | |
|-------------------------------|----------------------------------|
| Mayor.....M. J. Payne | Engineer.....E. O'Flaherty |
| Treasurer.....J. A. Bachman | Attorney.....William Charles |
| Collector.....S. D. Vaughan | Recorder.....G. W. Toler |
| Assessor.....E. O'Flaherty | Market Master.....H. C. Lockwood |
| Register.....†Michael Smith | Wharf Master.....*Thos. R. Lord |
| Register.....Bernard Donnelly | ".....D. M. Jarboe |
| Marshal.....Wm. Holden | Wharf Register.....John Joyce |
| *Resigned. †Died. | |

OFFICIAL REGISTER.

1863.

Councilmen.

1st Ward—C. W. Fairman, P. Schwitzgabel, C. A. Carpenter.
2d Ward—W. C. Holmes, *F. Timmerman, Chas. Dwyer.

3d Ward—L. Deardorff, President; F. P. Flagler, Thos. Burke.
B. Donnelly, Clerk.

City Officers.

Mayor*Wm. Bonnefield
Treasurer.....A. B. Cross
Collector.....C. F. Smith
Assessor.....D. M. Jarboe
RegisterBernard Donnelly
MarshalDennis O'Brien
Attorney.....Wm. Quarles
".....John C. Gage
Recorder.....A. Ellenbarger
Engineer.....*B. R. Whitney
*Resigned.

Engineer.....Prof. Malone
Street Commissioner....John Vallalee
".....Pierce Blake
Market Master.....H. S. Lockwood
Wharf Master..Fred Von Langermann
".....F. McMullen
Wharf Register.....W. B. Hoagland
Inspector of Weights and Measures,
F. Von Langermann
Wharf Register.....A. L. Hughes

1864.

Councilmen.

1st Ward—C. A. Carpenter, James Mansfield, *P. Shannon.
2d Ward—Chas. Dwyer, B. L. Riggins, Aaron Raub.
P. S. Brown (place of Shannon); Kump (place of Raub).

3d Ward—Thos. Burke, 2d President;
*T. S. Case, President; P. C. Causey.
B. Donnelly, Clerk.
Wm. Smith (place of Case); F. H.

City Officers.

Mayor.....*R. T. Van Horn
".....P. Shannon
Treasurer.....S. D. Vaughan
Collector.....*Robt. Salisbury
".....E. B. Cravens
Assessor.....E. O'Flaherty
RegisterBernard Donnelly
MarshalDennis O'Brien
Attorney.....Chas. Carpenter
*Resigned.

Recorder.....A. Ellenbarger
EngineerWm. Millar
Wharf Master.....Thos. McMillan
Wharf Register.....Dave Kennedy
".....John Joyce
Market Master.....H. S. Lockwood
".....P. R. Lord
Inspector of Weights and Measures,
H. R. Seeger

1865.

Councilmen.

1st Ward—James Mansfield, P. S. Brown, J. Q. Watkins, 2d President.
2d Ward—H. L. Huhn, *E. F. Rogers, President; *John Taylor.
Chas. Dwyer (place of Rogers).

3d Ward—Gerhart Zucker, Thomas Burke, Wm. Kolb.
B. Donnelly, Clerk.

City Officers.

MayorP. Shannon
Treasurer.....S. D. Vaughan
Collector.....Elisha B. Cravens
Assessor.....E. O'Flaherty
RegisterBernard Donnelly
MarshalJeremiah Dowd
Attorney.....Thos. B. Rummel
Recorder.....C. A. Carpenter
*Resigned.

Engineer*Wm. Millar
".....E. O'Flaherty
".....Wm. Millar
Market Master.....Michael Renahan
Inspector of Weights and Measures,
David Slater
Wharf Master.....Thos. Fox
Wharf Register.....Samuel H. Quest

OFFICIAL REGISTER.

1866.

Councilmen.

| | |
|--|--|
| 1st Ward—Chas. Dwyer, John Bauerlein, Robt. Salisbury. | 3d Ward—Thos. Burke, David Slater, Jno. R. Ballis. |
| 2d Ward—F. A. Mitchell, President; Nathaniel Vincent, Henry Tobener. | Dennis O'Brien, Clerk. |

City Officers.

| | |
|--------------------------------|--------------------------------------|
| Mayor.....A. H. Harris | Attorney.....Charles Carpenter |
| Treasurer.....Sam'l D. Vaughan | Recorder.....C. A. Carpenter |
| Collector.....Chas. Long | Physician.....Dr. Lankford |
| Engineer.....E. O'Flaherty | Market Master.....Michael Renahan |
| Assessor.....Bernard Donnelly | Wharf Master.....H. G. Toler |
| Register.....Dennis O'Brien | Wharf Register.....Philip Ott |
| Marshal.....Jeremiah Dowd | Ins. Weights and Meas...H. R. Seeger |

1867.

Councilmen.

| | |
|---------------------------------------|--|
| 1st Ward—John Campbell, H. L. Huhn. | 3d Ward—Hiram W. Cooper, J. W. Keefer. |
| 2d Ward—Herman Hucke, E. H. Spalding. | 4th Ward—E. A. Phillips, Henry Spears. |

City Officers.

| | |
|--------------------------------|--------------------------------------|
| Mayor.....E. H. Allen | Recorder.....C. A. Carpenter |
| City Clerk.....T. H. Brougham | Health Officer.....Dr. S. S. Todd |
| Marshal.....J. B. Brothers | Chief of Fire Dep't...Francis Foster |
| Treasurer.....J. W. L. Slavens | Market Master.....Edward Kellar |
| Auditor.....Dennis O'Brien | In. Wts. and Meas..Chas. C. Treadway |
| Engineer.....Oscar Koehler | Wharf Register.....A. T. Hoover |
| Attorney.....Wm. Warner | Wharf Master.....E. B. McDill |
| Recorder.....P. Lucas | Assessor.....Jos. Lill |

1868.

Councilmen.

| | |
|---|--|
| 1st Ward—John Campbell, Junius Chaffee. | 3d Ward—H. W. Cooper, J. W. Cook. |
| 2d Ward—Herman Hucke, M. English. | 4th Ward—E. A. Phillips, *Wm. Smith, A. H. Waterman. |

*Resigned.

City Officers.

| | |
|--------------------------------------|--------------------------------------|
| Mayor.....A. L. Harris | City Clerk, pro tem...T. H. Brougham |
| Treasurer.....Geo. Sweeny | " ".....Mell H. Hudson |
| Wharf Master.....A. T. Hoover | Assessor.....J. B. Drinkard |
| Wharf Register.....Joseph Dragon | Auditor.....Dennis O'Brien |
| Market Master.....Edward Kellar | Engineer.....John Donnelly |
| Ins. of Wts. and Meas..W. J. Hockett | Physician.....D. E. Dickerson |
| Chief of Police.....Simon Kerr | Marshal.....John L. Keck |
| Street Commissioner..John Brosnahan | Attorney.....H. P. White |
| Health Officer.....Dr. Lankford | Recorder.....C. A. Carpenter |
| " ".....D. E. Dickerson | Supervisor of Registration, |
| City Clerk.....*T. B. McLean | P. C. Causey |
| *Resigned. | |

OFFICIAL REGISTER.

1869.

Councilmen.

| | |
|---|--|
| 1st Ward — Junius Chaffee, C. J. White. | 3d Ward—J. W. Cook, Thos. Wolf. |
| 2d Ward—M. English, J. H. McGee. | 4th Ward—A. H. Waterman, R. W. Hilliker. |

City Officers.

| | |
|------------------------------|------------------------------------|
| Mayor.....F. R. Long | Physician.....D. E. Dickerson |
| City Clerk.....M. H. Hudson | Wharf Master.....A. T. Hoover |
| Treasurer.....Geo. Sweeny | ".....J. S. Allen |
| Assessor.....C. F. Smith | Market Master.....J. G. Bauerlein |
| Auditor.....Dennis O'Brien | Chief of Police.....Robert Adams |
| Engineer.....John Donnelly | Street Com'r.....R. H. Dickinson |
| Marshal.....John L. Keck | Wharf Register...W. S. Shrewsberry |
| Attorney.....D. S. Twitchell | Supervisor of Registration, |
| Recorder.....W. H. Sutton | Wm. Ferguson |

1870.

Councilmen.

| | |
|---|---|
| 1st Ward—C. J. White, John Campbell, Junius Chaffee, President. | 3d Ward—Thos. Wolf, D. Ellison, J. Lykins. |
| 2d Ward—J. H. McGee, *P. J. Henn, J. W. Keefer. | 4th Ward—R. W. Hilliker, Jas. E. Marsh, Thos. E. Burke. |

City Officers.

| | |
|---------------------------------|--------------------------------------|
| Mayor.....E. M. McGee | Assessor.....Robt. Salisbury |
| Treasurer.....Geo. Sweeny | Collector.....P. M. Chouteau |
| Auditor.....John J. Tobin | Physician.....D. E. Dickerson |
| Marshal.....Thos. M. Speers | Market Master.....H. F. Smith |
| Attorney.....H. P. White | Engineer.....John Donnelly |
| Recorder.....C. A. Carpenter | Ins. of Wts. and Meas...Wm. Tobener |
| Supervisor of Registration..... | Chief of Fire Dep't...Jas. McMenamin |
|Chas. Keller | Wharf Master.....A. T. Hoover |
| City Clerk.....Daniel Geary | |
| *Resigned. | |

1871.

Councilmen.

| | |
|--|--|
| 1st Ward—John Campbell, Junius Chaffee, President. Wm. Weston. | 3d Ward—D. Ellison, J. Lykins, Joab Toney. |
| 2d Ward—P. J. Henn, J. W. Keefer, H. T. Hovelman. | 4th Ward—Jas. E. Marsh, Thos. Burke, James Hannon. |

City Officers.

| | |
|--------------------------------------|------------------------------------|
| Mayor.....William Warner | Ins. of Wts. and Meas..Wm. Tobener |
| Auditor.....John J. Tobin | City Clerk.....Daniel Geary |
| Treasurer.....Samuel Jarboe | Wharf Master.....A. T. Hoover |
| Recorder.....D. A. N. Grover | Market Master.....R. C. Gould |
| Marshal.....Thos. M. Speers | Engineer.....*O. Chanute |
| Attorney.....J. W. Dunlap | ".....J. J. Moore |
| Supervisor of Registration, | Physician.....W. C. Evans |
| Robert Roth | Collector.....P. M. Chouteau |
| Assessor.....Robert Salisbury | Counselor.....*John C. Gage |
| Chief of Fire Dept....Jas. McMenamin | ".....J. Brumback |
| *Resigned. | |

OFFICIAL REGISTER.

1872.

Councilmen.

| | |
|---|---|
| 1st Ward—Michael Flynn, Wm. Weston. | 4th Ward—H. T. Hovelman, M. English. |
| 2d Ward—Lyman McCarty, Michael Diveley. | 5th Ward—D. H. Porter, D. Ellison, President. |
| 3d Ward—M. Harner, E. L. Martin. | 6th Ward—Patrick Kirby, Patrick Fay. |

City Officers.

| | |
|---|--------------------------------------|
| Mayor.....R. H. Hunt | Ins. of Wts. and Meas.....Sam Winram |
| Auditor.....H. C. Kumpf | Physician.....W. C. Evans |
| Treasurer.....Samuel Jarboe | Engineer.....H. L. Marvin |
| Recorder.....O. G. Long | Collector.....P. M. Chouteau |
| Marshal.....Wm. Sheppard | Market Master.....R. C. Gould |
| Attorney.....John T. Campbell | Assessor.....Robt. Salisbury |
| Supervisor of Registration, H. B. Toelle | Counselor.....J. Brumback |
| City Clerk.....*Daniel Geary | Wharf Master.....W. A. M. Vaughan |
| " ".....J. Enright | Wood Inspector.....J. Y. Leveridge |
| Chief of Fire Dept.....J. M. Silvers | Supt. Workhouse.....Chas. Quest |
| *Resigned. | " ".....E. H. Russel |

1873.

Councilmen.

| | |
|--|---|
| 1st Ward—James Farrow, John Campbell. | 4th Ward—Patrick McAnany, Chas. A. Ebert. |
| 2d Ward—Geo. A. Black, F. B. Nofsinger, President. | 5th Ward—H. D. Wright, O. H. Short. |
| 3d Ward—P. Vandenburg, D. A. N. Grover. | 6th Ward—Edwin Rice, P. Kirby. |

City Officers.

| | |
|--|--------------------------------------|
| Mayor.....E. L. Martin | Assessor.....*John T. Blake |
| Recorder.....D. H. Porter | Assessor.....Robert Salisbury |
| Auditor.....H. C. Kumpf | Sanitary Sergeant.....E. H. Russell |
| Treasurer.....Wm. Weston | Chief of Fire Dept.....J. M. Silvers |
| Marshal.....G. G. Neiswanger | Physician.....A. M. Crow |
| Attorney.....H. M. Withers | City Clerk.....A. Mayer |
| Supervisor of Registration..D. L. Hall | Ins. Weights and Meas...Jas. Sweeny |
| Supt. of Workhouse....M. M. Cormick | Wood Inspector.....Thos. Clowdsley |
| Collector.....Web Withers | Wood Inspector.....T. McLean |
| Engineer.....H. L. Marvin | Janitor.....Isaiah Givens |
| Market Master.....John Phillips | Counselor.....J. Brumback |
| *Resigned. | |

OFFICIAL REGISTER.

1874

Councilmen.

| | |
|--|--|
| 1st Ward—John Campbell, Jos. M. Beach. | 4th Ward—Chas. A. Ebert, W. W. Payne, President. |
| 2d Ward—F. B. Nofsinger, A. C. Moffat. | 5th Ward—O. H. Short, Ed. H. Webster. |
| 3d Ward—D. A. N. Grover, Dennis Levy. | 6th Ward—P. Kirby, Edward Kelley. |

City Officers.

| | |
|---|---------------------------------------|
| Mayor.....S. D. Woods | Comptroller.....W. B. Napton |
| Recorder.....James Farrow | Chief of Fire Dep't.....M. E. Burnett |
| Auditor.....H. C. Kumpf | Supt. Workhouse.....F. Fitzpatrick |
| Treasurer.....P. M. Chouteau | Market Master.....M. Renahan |
| Attorney.....J. C. Tarsney | Assessor.....Robt. Salisbury |
| Supervisor of Registration, J. M. Ekdahl | Ins. Weights and Meas....John Ryan |
| Counselor.....*F. M. Black | City Clerk.....A. Mayer |
| Counselor.....J. W. Dunlap | Janitor.....Adam Taylor |
| Engineer.....E. O'Flaherty | License Inspector.....Thos. Fox |
| Physician.....J. O. Day | Chief of Police.....Thos. M. Speers |

1875.

Councilmen.

| | |
|--|---|
| 1st Ward—J. M. Beach, John Campbell. | 4th Ward—W. W. Payne, President; P. McAnany. |
| 2d Ward—A. C. Moffatt, B. A. Feineman. | 5th Ward—Ed. H. Webster, J. W. Reid. |
| 3d Ward—Dennis Levy, G. W. Lovejoy. | 6th Ward—Edward Kelley, H. A. Sims. |

City Officers.

| | |
|---|--|
| Mayor.....Turner A. Gill | Chief of Fire Dep't....M. E. Burnett |
| Treasurer.....P. M. Chouteau | Chief of Fire Dep't.....F. Foster |
| Auditor.....H. C. Kumpf | Assessor.....Robert Salisbury |
| Recorder.....W. H. Sutton | Physician.....Joss M. Wood |
| Attorney.....Wash Adams | Engineer.....A. A. Holmes |
| Supervisor of Registration, J. M. Ekdahl | Inspector of Licenses.....Thos. Fox |
| Comptroller.....D. A. N. Grover | Ins. Weights and Measures, Chas. W. Falke |
| Counselor.....*John C. Gage | Market Master.....Patrick O'Reilly |
| Counselor.....J. Brumback | City Clerk.....A. Mayer |
| Supt. Workhouse.....James Dowling | Chief of Police.....Thos. M. Speers |

*Resigned.

OFFICIAL REGISTER.

1876.

Councilmen.

| | |
|---|--|
| 1st Ward—John Campbell, W. S. Gregory. | 4th Ward—P. McAnany, James M. Buckley. |
| 2d Ward—*B. A. Feineman, D. R. Porter, Edward Lynde, President. | 5th Ward—J. W. Reid, Wm. Holmes. |
| 3d Ward—G. W. Lovejoy, Dennis Levy. | 6th Ward—H. A. Sims, David P. Bigger. |

City Officers.

| | |
|---|-------------------------------------|
| Mayor.....Turner A. Gill | Engineer.....A. A. Holmes |
| Treasurer.....P. M. Chouteau | Market Master.....Patrick O'Reilly |
| Auditor.....Leander J. Talbott | Janitor.....M. Monahan |
| Recorder.....†W. H. Sutton | Physician.....Wm. C. Morris |
| Recorder.....H. R. Kelso | Supt. Workhouse.....J. W. Wirth |
| Attorney.....Wash Adams | Ins. Weights and Meas...John Kelley |
| Supervisor of Registration, J. M. Ekdahl | City Clerk.....*A. Mayer |
| Counselor.....J. Brumback | City Clerk.....E. R. Hunter |
| Comptroller.....D. A. N. Grover | Chief of Fire Dep't.....F. Foster |
| Assessor.....Robt. Salisbury | Chief of Police.....Thos. M. Speers |
| *Resigned. †Died. | |

1877.

Councilmen.

| | |
|---|---|
| 1st Ward—W. S. Gregory, Philip Casey. | 4th Ward—Jas. M. Buckley, W. B. Robinson. |
| 2d Ward—E. Lynde, President; R. H. Drennon. | 5th Ward—Wm. Holmes, W. H. Winants. |
| 3d Ward—Dennis Levy, C. C. Whitmeyer. | 6th Ward—David P. Bigger, H. A. Simms. |

City Officers.

| | |
|---|---|
| Mayor.....J. W. L. Slavens | Physician.....W. C. Morris |
| Auditor.....Leander J. Talbott | Ins. Licenses, Weights and Meas., F. M. Furgason |
| Treasurer.....P. M. Chouteau | Janitor.....Robert Campbell |
| Recorder.....D. Ellison | Market Master.....Joseph Porter |
| Attorney.....James Gibson | Supt. Workhouse.....W. L. Sheppard |
| Supervisor of Registration, John M. Ekdahl | City Clerk.....W. E. Benson |
| Comptroller.....H. C. Kumpf | Engineer.....A. A. Holmes |
| Counselor.....*J. M. Dews | Chief of Police.....Thos. M. Speers |
| Counselor.....H. N. Ess | Chief of Fire Dept.....F. Foster |
| Assessor.....Robt. Salisbury | |
| *Resigned. | |

OFFICIAL REGISTER.

1878.

Councilmen.

| | |
|---|--|
| 1st Ward—Phillp Casey, P. D. Etue. | 4th Ward—W. B. Robinson, L. A. Allen. |
| 2d Ward—R. H. Drennon, H. C. Morrison. | 5th Ward—W. H. Winants, President; Louis Dragon. |
| 3d Ward—C. C. Whitmeyer, Tom W. Butler. | 6th Ward—H. A. Simms, A. H. Glasner. |

City Officers.

| | |
|--|--|
| Mayor.....Geo. M. Shelley | Janitor.....M. Monahan |
| Treasurer.....Wm. Weston | Market Master.....Joseph Porter |
| Auditor.....L. J. Talbott | Engineer.....J. M. Trowbridge |
| Recorder.....Hamilton Finney | Comptroller.....H. C. Kumpf |
| Attorney.....James Gibson | Ins. Licenses, Weights and Meas., W. W. Payne |
| Supervisor of Registration, Erastus Johns | Counselor.....Stephen P. Twiss |
| Assessor.....Robt. Salisbury | Physician.....A. M. Crow |
| City Clerk.....W. E. Benson | Chief of Police.....Thos. M. Speers |
| Supt. of Workhouse...*W. L. Sheppard | Chief of Fire Dep't.....F. Foster |
| Supt. of Workhouse.....Wm. Kelley | |

*Resigned.

1879.

Councilmen.

| | |
|---|---|
| 1st Ward—Peter D. Etue, Geo. W. McClelland. | 4th Ward—L. A. Allen, John Salisbury. |
| 2d Ward—H. C. Morrison, Jos. N. DuBois. | 5th Ward—Louis Dragon, T. B. Bulene, President. |
| 3d Ward—Tom W. Butler, Richard H. Maybury. | 6th Ward—A. H. Glasner, Patrick Hickey. |

City Officers.

| | |
|--------------------------------------|---|
| Mayor.....Geo. M. Shelley | Engineer.....C. H. Knickerbocker |
| Treasurer.....Albert C. Walmsley | Assistant Engineer.....John Donnelly |
| Auditor.....William Vincent | Janitor.....Robt. Campbell |
| Recorder.....Hamilton Finney | Physician.....D. R. Porter |
| Attorney.....Thomas King | Market Master.....Wm. Burk |
| Supt. Registration...Marshal K. Kirk | Ins. Licenses, Wts. and Meas., Benedict Walbel |
| Counselor.....Turner A. Gill | Supt. Workhouse.....Frank R. Allen |
| Comptroller.....Henry C. Kumpf | Chief of Police.....Thos. M. Speers |
| Assessor.....Robt. Salisbury | Chief of Fire Dept.....F. Foster |
| City Clerk.....W. E. Benson | |

OFFICIAL REGISTER.

1880.

Councilmen.

| | |
|--|--|
| 1st Ward—G. W. McClelland, W. J. Ross. | 4th Ward—L. A. Allen, Jno. Salisbury. |
| 2d Ward—J. N. DuBois, J. A. McDonald. | 5th Ward—T. B. Bullene, Louis Dragon. |
| 3d Ward—R. H. Maybury, Jno. W. Moore. | 6th Ward—W. G. Duncan, Patrick Hickey. |
| Chas. Fradenburg, Sergeant at Arms. | |

City Officers.

| | |
|---------------------------------|--------------------------------------|
| Mayor.....Chas. A. Chace | Physician.....C. J. Jenkins |
| Treasurer.....A. C. Walmsley | Chief of Fire Dept....Francis Foster |
| Auditor.....William Vincent | Chief of Police.....Thos. M. Speers |
| Recorder.....Hamilton Finney | Supt. of Workhouse...Frank R. Allen |
| Attorney.....Thos. King | License Inspector.....Adam Johns |
| Counselor.....Washington Adams | Market Master.....John J. Granfield |
| Comptroller.....Nathaniel Grant | Supervisor of Registration, |
| Engineer.....Jno. Donnelly | Michael Burk |
| Assessor.....Robert Salisbury | Public Impounder.....John Gallagher |
| Clerk.....Vincent D. Callahan | Janitor.....Wm. Johnson |

1881.

Councilmen.

| | |
|---|--|
| 1st Ward—W. J. Ross, Jas. M. Ford. | 4th Ward—L. A. Allen, Jno. Salisbury. |
| 2d Ward—Jno. A. McDonald, D. H. Porter. | 5th Ward—Louis Dragon, B. A. Sheldley. |
| 3d Ward—Jno. W. Moore, James Anderson. | 6th Ward—W. G. Duncan, M. Gaffney. |

City Officers.

| | |
|----------------------------------|--------------------------------------|
| Mayor.....Daniel Frink | Physician.....John Fee |
| Treasurer.....Albert C. Walmsley | Chief of Fire Dept....Francis Foster |
| Auditor.....Maurice L. Sullivan | Chief of Police.....Thos. M. Speers |
| Recorder.....John W. Childs | Supt. of Workhouse...Thos. C. Clary |
| Attorney.....W. J. Strong | License Inspector...Benedict Walbel |
| Counselor.....D. S. Twichell | Market Master.....Jno. J. Granfield |
| Comptroller.....Nathaniel Grant | Supervisor of Registration, |
| Engineer.....John Donnelly | Minor H. Bass |
| Assessor.....Robert Salisbury | Public Impounder.....John Gallagher |
| Clerk.....Vincent D. Callahan | Janitor.....Wm. Johnson |

OFFICIAL REGISTER.

1882.

Councilmen.

| | |
|---|--|
| 1st Ward—W. J. Ross, Jas. M. Ford. | 4th Ward—John Salisbury, Jefferson Brumback. |
| 2d Ward—D. H. Porter, Chas. Brooks, Sr. | 5th Ward—*B. A. Sheldley, M. S. Ford. |
| 3d Ward—Jas. Anderson, A. G. Kesler. | 6th Ward—M. Gaffney, C. A. Brockett. |
| Chas. Fradenburg, Sergeant at Arms. | |

*Resigned.

City Officers.

| | |
|---------------------------------|--|
| Mayor.....Thos. B. Bullene | Chief of Fire Dept.....Geo. C. Hale |
| Treasurer.....A. C. Walmsley | Chief of Police.....Thos. M. Speers |
| Auditor.....M. L. Sullivan | Supt. Workhouse.....John Moynahan |
| Recorder.....Geo. R. Jones | License Inspector....Benedict Walbel |
| Attorney.....W. J. Strong | Market Master.....Minor H. Bass |
| Counselor.....D. S. Twichell | Supervisor of Registration, Otto Seltz |
| Comptroller.....Nathaniel Grant | Public Impounder.....A. J. Hiscox |
| Engineer.....Wm. B. Knight | Janitor.....Wm. Johnson |
| Assessor.....Thos. H. Edwards | Street Commissioner....Dennis Levy |
| Clerk.....H. P. Langworthy | Boiler Inspector....Jno. C. McFadden |
| Physician.....Dr. Jno. Fee | |

1883.

Councilmen.

| | |
|---|---|
| 1st Ward—W. J. Ross, Martin Regan. | 4th Ward—Jefferson Brumback, Jos. M. Patterson. |
| 2d Ward—Chas. Brooks, Sr., A. K. Sweet. | 5th Ward—S. M. Ford, Jno. H. Reid. |
| 3d Ward—A. G. Kesler, H. T. Hovelman. | 6th Ward—C. A. Brockett, M. Gaffney. |
| Chas. Fradenburg, Sergeant at Arms. | |

City Officers.

| | |
|--------------------------------|--------------------------------------|
| Mayor.....James Gibson | Physician.....Dr. Jno. Fee |
| Treasurer.....L. B. Eveland | Chief of Fire Dept.....Geo. C. Hale |
| Auditor.....M. L. Sullivan | Chief of Police.....Thos. M. Speers |
| Recorder.....Chas. M. Ingraham | Supt. Workhouse.....Jno. Moynahan |
| Attorney.....Orwell T. Knox | License Inspector..Benedict Walbel |
| Counselor.....D. S. Twichell | Market Master.....Mynor H. Bass |
| Comptroller.....Nath'l Grant | Supt. Registration.....Geo. Sellman |
| Engineer.....Wm. B. Knight | Boiler Inspector.....Thos. Cody |
| Assessor.....Thos. H. Edwards | Street Commissioner...Dennis Levy |
| Clerk.....H. P. Langworthy | Public Impounder....Jno. Gallagher |
| Janitor.....Wm. Johnson | Elevator Inspector....Col. McDougall |

OFFICIAL REGISTER.

1884.

Councilmen.

| | |
|--|---|
| 1st Ward—Martin Regan, Patrick O'Rourke. | 4th Ward—Jos. M. Patterson, Jno. Salisbury. |
| 2d Ward—A. K. Sweet, Jos. K. Davidson. | 5th Ward—Jno. H. Reid, J. M. Ford. |
| 3d Ward—H. T. Hovelman, A. G. Kesler. | 6th Ward—M. Gaffney, Jos. McClintock. |
| Chas. Fradenburg, Sergeant at Arms. | |

City Officers.

| | |
|---------------------------------|---------------------------------------|
| Mayor.....Leander J. Talbott | Street Commissioner..John H. Burke |
| Treasurer.....L. B. Eveland | License Inspector..Frederick Buehler |
| Auditor.....Benjamin D. West | Market Master.....John Fleming |
| Recorder.....Chas. M. Ingraham | Supt. of Registration....Geo. Sellman |
| Attorney.....John J. Campbell | Boiler Inspector.....Thos. Cody |
| Counselor.....Wash Adams | Elevator Inspector...James Bewsher |
| Comptroller.....Nathaniel Grant | Supt. of Buildings.....T. R. Tinsley |
| Engineer.....Wm. B. Knight | Supt. Workhouse.....Thos. Phelan |
| Assessor.....Thos. H. Edwards | Public Impounder.....John Gallagher |
| Clerk.....H. P. Langworthy | Chief of Fire Dep't.....Geo. C. Hale |
| Physician.....Dr. John Fee | Chief of Police.....Thos. M. Speers |
| Janitor.....Wm. Johnson | Meat Inspector.....Wm. Burnett |

1885.

Councilmen.

| | |
|---|--|
| 1st Ward—P. O'Rourke, Jas. A. Finlay. | 4th Ward—Jno. Salisbury, Geo. W. Tourtellot. |
| 2d Ward—Jos. K. Davidson, Wiley O. Cox. | 5th Ward—J. M. Ford, Charles E. Moss. |
| 3d Ward—A. G. Kesler, C. C. Whitmeyer. | 6th Ward—John McClintock, John J. Granfield. |
| Chas. Fradenburg, Sergeant at Arms. | |

City Officers.

| | |
|---------------------------------|---------------------------------------|
| Mayor.....Jno. W. Moore | Street Commissioner..J. W. Underwood |
| Treasurer.....Geo. W. Jones | License Inspector.....Caleb Huestis |
| Auditor.....Benj. D. West | Market Master.....John Fleming |
| Recorder.....Jos. H. Worthen | Supervisor of Reg...Benedict Waibel |
| Attorney.....Jno. J. Campbell | Boiler Inspector.....Thos. Cody |
| Counselor.....Edwd. L. Scarritt | Elevator Inspector...Geo. E. Sartwell |
| Comptroller.....Nathaniel Grant | Supt. of Buildings.....T. R. Tinsley |
| Engineer.....Benj. R. Whitney | Supt. of Workhouse.....Thos. Phelan |
| Assessor.....Thos. H. Edwards | Public Impounder.....C. M. Meek |
| Clerk.....H. P. Langworthy | Chief of Fire Dept.....Geo. C. Hale |
| Physician.....Dr. John Fee | Chief of Police.....Thos. M. Speers |
| Janitor.....Wm. Johnson | City Chemist.....Robert T. Sloan |
| Scavenger.....Chas. Grant | Meat Inspector.....Wm. Burnett |

OFFICIAL REGISTER.

1886.

Councilmen.

| | |
|---|--|
| 1st Ward—J. J. Granfield, Maurice Hurley. | 7th Ward—Cornelius Maloney, H. D. Train. |
| 2d Ward—W. J. Looney, Jno. Keenan. | 8th Ward—W. O. Cox, J. K. Davidson. |
| 3d Ward—C. E. Moss, D. P. Thomson. | 9th Ward—C. C. Whitmeyer, E. W. Hayes. |
| 4th Ward—G. W. Tourtellot, J. M. Patterson. | 10th Ward—Frederick Howard, W. E. Ridge. |
| 5th Ward—A. W. Love, J. H. Burke. | |
| 6th Ward—J. A. Finlay, Martin Regan. | |

Frank C. Jones, Sergeant at Arms.

City Officers.

| | |
|---------------------------------------|--------------------------------------|
| Mayor.....Henry C. Kumpf | Supt. of Buildings....W. B. Everhart |
| Treasurer.....Benjamin Holmes | Engineer.....John Donnelly |
| Auditor.....B. D. West | Assessor.....Thos. H. Edwards |
| Recorder.....Jos. H. Worthen | Clerk.....H. P. Langworthy |
| Attorney.....Jos. J. Williams | Physician.....Dr. John Fee |
| Counselor.....Robert Quarles | Janitor.....Wm. Johnson |
| Comptroller.....*Nath'l Grant | Scavenger.....Henry Middleton |
| Street Commissioner..Jas. Finnucane | Supt. Work House.....Thos. Phelan |
| License Inspector.....Caleb Huestis | Public Impounder.....C. M. Meek |
| Market Master.....Jas. C. Henry | City Chemist.....Robt. T. Sloan |
| Supt. Registration..W. L. Hendershott | Meat Inspector.....J. Herold |
| Boiler Inspector.....Thos. Cody | Chief of Fire Dept.....Geo. C. Hale |
| Elevator Inspector.....C. P. Gerahty | Chief of Police.....Thos. M. Speers |
| *Died. | |

1887.

Councilmen.

| | |
|--------------------------------------|--|
| 1st Ward—Maurice Hurley, John Grady. | 6th Ward—J. A. Finlay, Martin Regan. |
| 2d Ward—W. J. Looney, Jno. Keenan. | 7th Ward—Cornelius Maloney, H. D. Train. |
| 3d Ward—D. P. Thompson, G. W. Lee. | 8th Ward—W. O. Cox, J. K. Davidson. |
| 4th Ward—J. M. Patterson, M. Welsh. | 9th Ward—E. W. Hayes, M. D. Wood. |
| 5th Ward—A. W. Love, J. H. Burke. | 10th Ward—Fred Howard, W. E. Ridge. |
| Joseph Glynn, Sergeant at Arms. | |

City Officers.

| | |
|-------------------------------------|--------------------------------------|
| Mayor.....H. C. Kumpf | Street Commissioner....James Brice |
| Treasurer.....Benj. Holmes | License Inspector.....Caleb Huestis |
| Auditor.....B. D. West | Market Master.....Jas. C. Henry |
| Recorder.....J. J. Davenport | Supt. of Registration.....John Dolan |
| Attorney.....W. K. Hawkins | Boiler Inspector.....Thos. Cody |
| Counselor.....Robert Quarles | Elevator Inspector.....C. P. Gerahty |
| Comptroller.....A. E. Thomas | Supt. of Buildings....W. B. Everhart |
| Engineer.....John Donnelly | Supt. of Workhouse....Thos. Phelan |
| Assessor.....Thos. H. Edwards | Public Impounder.....*C. M. Meek |
| Clerk.....H. P. Langworthy | City Chemist.....R. R. Hunter |
| Physician.....Dr. F. Sturdevant | Meat Inspector.....J. Herold |
| Janitor.....Wm. Johnson | Chief of Fire Dept.....Geo. C. Hale |
| Scavenger.....Henry Middleton | Chief of Police.....Thos. M. Speers |
| Sidewalk Inspector..D. F. Greenwood | |
| *Died. | |

OFFICIAL REGISTER.

1888.

Councilmen.

| | |
|-------------------------------------|---|
| 1st Ward—Jno. Grady, H. L. Payne. | 6th Ward—J. A. Finlay, Martin |
| 2d Ward—W. J. Looney, John May. | 7th Ward—W. C. Keith, J. J. Green. |
| 3d Ward—G. W. Lee, Jno. McClintock. | 8th Ward—W. O. Cox, Robt. Carey. |
| 4th Ward—M. Welsh, W. T. Payne. | 9th Ward—M. D. Wood, F. A. Faxon. |
| 5th Ward—A. W. Love, D. H. Bowers. | 10th Ward—E. H. Phelps, D. R. Ingraham. |

Joseph Glynn, Sergeant at Arms.

City Officers.

| | |
|--------------------------------------|---------------------------------------|
| Mayor.....H. C. Kumpf | Street Commissioner.....James Brice |
| Treasurer.....Benj. Holmes | License Inspector.....R. M. Dillon |
| Auditor.....S. B. Winram | Market Master.....Jas. C. Henry |
| Recorder.....J. J. Davenport | Supervisor Registration..Jno. C. Hope |
| Attorney.....W. K. Hawkins | Boiler Inspector.....Thos. Cody |
| Counselor.....Robt. Quarles | Elevator Inspector.....F. E. Turner |
| Comptroller.....A. E. Thomas | Supt. of Buildings....W. B. Everhart |
| Engineer.....John Donnelly | Supt. of Workhouse.....Thos. Phelan |
| Assessor.....Thos. H. Edwards | Public Impounder...Albert J. Hiscox |
| Clerk.....H. P. Langworthy | Chemist.....R. R. Hunter |
| Physician.....Dr. John Fee | Meat Inspector.....J. Herold |
| Janitor.....Harry Dixon | Chief of Fire Dept.....Geo. C. Hale |
| Scavenger.....Henry Middleton | Chief of Police.....Thos. M. Speers |
| Sidewalk Inspector....Ed. O'Flaherty | |

1889.

Aldermen—Upper House.

| | |
|-----------------------------|-------------------|
| J. M. Patterson, President. | S. M. Ford. |
| J. F. Devenney. | F. Muehlschuster. |
| L. E. Wyne. | J. S. Cannon. |
| D. P. Thomson. | J. Niles Kimball. |
| C. A. Rollert. | D. S. Twichell. |

Chas. Waters, Sergeant at Arms.

Councilmen—Lower House.

| | |
|--|---|
| 1st Ward—Jno. Grady, H. L. Payne. | 7th Ward—H. P. Stewart, T. H. Walker. |
| 2d Ward—Jno. May, A. P. Foley. | 8th Ward—R. W. Cary, D. Pullman. |
| 3d Ward—Jno. McClintock, A. N. Church. | 9th Ward—F. A. Faxon, F. M. Hayes. |
| 4th Ward—W. T. Payne, Jno. Thomas. | 10th Ward—E. H. Phelps, D. R. Ingraham. |
| 5th Ward—A. W. Love, D. H. Bowes. | |
| 6th Ward—M. Regan, Con O'Sullivan. | |

Joseph Glynn, Sergeant at Arms.

City Officers.

| | |
|------------------------------------|---------------------------------------|
| Mayor.....Joseph J. Davenport | Recorder of Voters.....Jno. C. Hope |
| Treasurer.....Wm. Peake | Elevator Inspector.....C. L. Cookson |
| Auditor.....S. B. Winram | Ins. of Wts. and Meas....P. J. Coyne |
| Police Judge.....Michael Boland | Boiler Inspector.....Henry Bernauer |
| Attorney.....Wm. K. Hawkins | Supt. Buildings.....S. E. Chamberlain |
| Counselor.....L. C. Slavens | Supt. Workhouse.....Jno. Moynihan |
| Comptroller.....A. E. Thomas | Chief of Fire Dept.....Geo. C. Hale |
| Assessor.....T. H. Edwards | Chief of Police.....Thos. M. Speers |
| Clerk.....Albert Phenis | Engineer.....O. B. Gunn |
| Physician.....C. D. McDonald | Supt. Streets.....*Jas. Brice |
| License Inspector.....Robt. Lampe | Supt. Streets.....Thos. F. Callahan |
| Market Master.....T. H. Moore, Jr. | |

*Resigned.

Members of Board of Public Works.

| | |
|--|-----------------|
| Jno. Patterson, ex-officio, President. | P. E. Chappell. |
| L. K. Thacher. | Fred. Howard. |

OFFICIAL REGISTER.

1890-91.

Aldermen—Upper House.

J. S. Cannon, President.
*J. F. Devenney.
E. R. Hunter.
C. L. Dunham.
F. Muehlschuster.
J. Niles Kimball.
Carl Spengler.

R. J. Johnston.
W. C. Roberson.
L. M. Miller.
*E. W. Toler.
*E. S. Jewett.
*M. L. Sullivan.
J. T. Young.

C. S. Curry, Sergeant at Arms.

*Resigned on account of court decision declaring city extension illegal.

Councilmen—Lower House.

1st Ward—Jno. Grady.
2d Ward—A. P. Foley.
3d Ward—A. N. Church.
4th Ward—Jno. Thomas.
5th Ward—Dennis Bowes.
6th Ward—Con O'Sullivan.
7th Ward—H. P. Stewart.

8th Ward—D. Pullman.
9th Ward—Fred M. Hayes.
10th Ward—J. A. Brinkley.
11th Ward—*Jno. Tobin.
12th Ward—*Geo. Hoffman.
13th Ward—*C. E. Coblenz.
14th Ward—*J. W. Humphrey.

Joseph Glynn, Sergeant at Arms.

*Resigned on account of court decision declaring city extension illegal.

City Officers.

Mayor..... Benj. Holmes
Treasurer.....* Wm. Peake
Auditor.....Jno. G. Bishop
Police Judge.....J. L. Wheeler
Attorney.....J. W. Fraker
Counselor.....R. L. Yeager
Comptroller.....† Stanley Hobbs
Assessor.....Geo. W. Lee
Clerk.....F. G. Graham
Physician.....E. R. Lewis

*Theo. S. Case, vice Wm. Peake.

License Inspector.....C. J. Sutorius
Market Master.....T. H. Moore, Jr.
Recorder of Voters.....Jno. C. Hope
Elevator Inspector.....M. B. Mason
Ins. of Wts. and Meas....Ed. Hickman
Boiler Inspector.....Henry Bernauer
Supt. Workhouse.....W. G. Keshlear
Chief of Fire Dept.....Geo. C. Hale
Chief of Police.....Thos. M. Speers

†Died April 5, 1892.

Members of Board of Public Works.

J. S. Cannon, ex-officio, President.
Wm. Weston.

J. H. Beckham.
W. A. Kelley.

OFFICIAL REGISTER.

1892-93.

Aldermen—Upper House.

Peter H. Tiernan, President.
E. R. Hunter.
Wm. Huttig.
F. Muehlschuster.
J. Niles Kimball.

Carl Spengler.
R. J. Johnston.
F. J. Shinnick.
Oscar Dahl.
*J. H. Butler.

A. P. Schuerman, Sergeant at Arms.

*Resigned; succeeded by J. M. Lowe.

Councilmen—Lower House.

1st Ward—Jas. Pendergast.
2d Ward—A. P. Foley.
3d Ward—F. C. Gunn.
4th Ward—C. A. Young.
5th Ward—Jno. Fitzpatrick.

6th Ward—Martin Regan.
7th Ward—Jas. A. Hays.
8th Ward—Frank Phillips.
9th Ward—Geo. O. Warnecke.
10th Ward—Jos. R. Brinkley.

Joseph Glynn, Sergeant at Arms.

City Officers.

Mayor.....Wm. S. Cowherd
Treasurer.....L. B. Eveland
Auditor.....Henry Crawford
Police Judge.....Frank Johnson
Attorney.....J. W. Fraker
Counselor.....F. F. Rozzelle
Comptroller.....Benj. Holmes
Assessor.....Jas. A. Keel
Clerk.....F. G. Graham

Physician.....E. R. Lewis
License Inspector.....Jno. H. Ahrens
Market Master.....J. B. Shannon
Elevator Inspector.....M. B. Mason
Ins. of Wts. and Meas....Wm. Dwyer
Boiler Inspector.....Thos. Cody
Supt. Workhouse.....W. G. Keshlear
Chief of Fire Dept.....Geo. C. Hale
Chief of Police.....Thos. M. Speers

Members of Board of Public Works.

Peter H. Tiernan, ex-officio, President.
Chas. A. Rollert.

Geo. Holmes.
Jno. Taylor.

OFFICIAL REGISTER.

1894-95.

Aldermen—Upper House.

Peter H. Tiernan, President.
William Huttig.
R. J. Johnston.
F. J. Shinnick.
Oscar Dahl.

*Frank Phillips.
H. C. Morrison.
L. E. Wyne.
W. W. Morgan.
George Eysell.

A. P. Schuerman, Sergeant at Arms.

*Appointed to succeed J. M. Lowe, resigned.

Councilmen—Lower House.

1st Ward—James Pendergast.
2d Ward—John Moran.
3d Ward—John Reiger.
4th Ward—A. D. Craig.
5th Ward—A. B. Olson.

6th Ward—Martin Regan.
7th Ward—*W. T. Jamison.
8th Ward—P. S. Brown, Jr.
9th Ward—D. E. Stoner.
10th Ward—J. W. Kidwell.

C. S. Curry, Sergeant at Arms.

*Resigned; succeeded by Dr. J. W. Bowman.

City Officers.

Mayor.....Webster Davis
Treasurer.....John J. Green
Auditor.....John G. Bishop
Police Judge.....James M. Jones
Attorney.....C. E. Burnham
Counselor.....{F. F. Rozzelle
 {H. C. McDougall
Comptroller.....John F. Shannon
Assessor.....{Jos. A. Keel
 {C. C. Yost
Clerk.....C. S. Curry

Physician.....{A. M. Crow
 {G. O. Coffin
License Inspector.....I. N. Strickler
Market Master.....M. H. Bass
Elevator Inspector.....N. S. Chapman
Ins. Weights and Meas..M. C. Wuerz
Boiler Inspector.....Henry Bernauer
Supt. Workhouse.....Alf. Brant
Chief Fire Dept.....Geo. C. Hale
Chief of Police {Thos. M. Speers
 {L. E. Irwin

Members of Board of Public Works.

P. H. Tiernan, ex-officio, President.
John C. Gage.

*L. K. Thacher.
L. C. Slavens.

*Deceased; succeeded by R. S. Owens.

Board of Election Commissioners.

H. C. Arnold, Chairman.

Jos. H. Harris, Secretary.

Milton Moore.

Board of Park Commissioners.

A. R. Meyer, President.
Robert Gillham.
S. B. Armour.

Adrian Van Brunt.
Chas. Campbell.
Geo. E. Kessler, Engineer.

OFFICIAL REGISTER.

1896-97.

Aldermen—Upper House.

Geo. S. Graham, President.
R. J. Johnson.
W. W. Morgan.
Geo. Eysell.
H. C. Morrison.

C. N. Munson.
J. E. Jewell.
Jno. T. Seddon.
L. E. Wyne.
P. S. Brown, Jr.

Wm. Clough, Sergeant at Arms.

Councilmen—Lower House.

1st Ward—Jas. Pendergast.
2d Ward—Julius J. Wolf.
3d Ward—S. B. Hough.
4th Ward—R. D. Craig.
5th Ward—Jas. O. Beroth.

6th Ward—Jno. P. Lynch.
7th Ward—N. P. Simonds.
8th Ward—Frank Brinkley.
9th Ward—Jas. G. Smith.
10th Ward—A. D. Burrows.

W. D. Scoville, Sergeant at Arms.

City Officers.

Mayor.....Jas. M. Jones
Treasurer.....Jno. J. Green
Auditor.....John G. Bishop
Police Judge.....F. W. Griffin
Attorney.....C. E. Burnham
Counselor.....{H. C. McDougal
 {R. B. Middlebrook
Comptroller... {John F. Shannon
 {Hans Lund
Assessor.....C. C. Yost

†Deceased; succeeded by Benj. Warner.

Clerk.....C. S. Curry
Physician.....G. O. Coffin
License Inspector.....M. L. Earhart
Market Master.....Geo. M. Randall
Elevator Inspector.....N. S. Chapman
Ins. of Wts. and Meas.....M. C. Wuerz
Boiler Inspector.....Henry Bernauer
Supt. Workhouse.....†Alf. Brant
Chief of Fire Dept.....Geo. C. Hale
Chief of Police.....*L. C. Irwin

*Deceased; succeeded by Jno. Hayes.

Members of Board of Public Works.

Geo. S. Graham, ex-officio. President.
Geo. P. Hardesty.

Geo. J. Baer.
Geo. W. Youmans.

Water Works Department.

W. S. Cameron, Superintendent;
succeeded by D. W. Longwell.

C. S. Squier, Assessor and
Collector of Water Rates.

Board of Park Commissioners.

A. R. Meyer, President.
Robt. Gillham.
Simeon B. Armour.

Adriance Van Brunt.
Chas. Campbell.
Geo. E. Kessler, Engineer.

Board of Election Commissioners.

H. C. Arnold, President.
J. H. Harris, Secretary.

Milton Moore.

OFFICIAL REGISTER.

1898-99.

Aldermen—Upper House.

Geo. S. Graham, President.
A. F. Batt.
John E. Lach.
Frank C. Peck.
H. M. Gerhart.
S. B. Hough.
W. W. Harnden.

E. S. Jewett.
H. M. Beardsley.
C. N. Munson.
J. E. Jewell.
John T. Seddon.
L. E. Wyne.
P. S. Brown, Jr.

Wm. Clough, Sergeant at Arms.

Councilmen—Lower House.

1st Ward—James Pendergast.
2d Ward—Jno. Moran.
3d Ward—Jesse L. Jewell.
4th Ward—Claus Swanson.
5th Ward—J. O. Beroth.
6th Ward—John P. Lynch.
7th Ward—L. B. Sawyer.

8th Ward—Frank Brinkley.
9th Ward—W. H. Otto.
10th Ward—A. D. Burrows.
11th Ward—John F. Wiedenmann.
12th Ward—John Q. Watkins, Jr.
13th Ward—F. L. Middleton.
14th Ward—F. N. Johnson.

John Thomas, Sergeant at Arms.

City Officers.

Mayor.....James M. Jones
Mayor's Secretary.....E. Mont Reilly
Treasurer.....J. Scott Harrison, Jr.
Auditor.....T. C. Bell
Police Judge.....C. E. Burnham
Clerk Police Court..Nelson C. Crews
Attorney.....D. A. Brown
Counselor.....R. B. Middlebrook
First Assistant....Herbert S. Hadley
Second Assistant.....S. S. Winn
Comptroller.....Hans Lund
Clerk.....Chas. S. Curry

Physician.....G. O. Coffin
License Inspector.....M. C. Wuerz
Market Master.....F. M. Williams
Boiler Inspector.....Henry Bernauer
Elevator Inspector.....N. S. Chapman
Supt. Buildings.....A. W. Love
Supt. Work House.....Benj. Warner
Assessor.....C. C. Yost
Chief Fire Dept.....Geo. C. Hale
Chief Police.....John Hayes
Supt. Water Works...D. W. Longwell
Assr. and Col. Water Dep.C. S. Squier

Members of Board of Public Works.

Geo. S. Graham, ex-officio, President.
Geo. P. Hardesty.

M. V. Watson.
B. T. Whipple.

Board of Park Commissioners.

A. R. Meyer, President.
Robert Gillham.
S. B. Armour.

A. Van Brunt.
Charles Campbell.
George E. Kessler, Engineer.

Board of Election Commissioners.

H. C. Arnold, President.
J. H. Harris, Secretary.

Milton Moore.

OFFICIAL REGISTER.

1900-01.

Aldermen—Upper House.

| | |
|----------------------------|------------------|
| T. M. Spofford, President. | H. M. Beardsley. |
| Frank C. Peck. | Geo. B. Berry. |
| W. J. Knepp. | W. W. Harnden. |
| A. F. Batt. | J. M. Rood. |
| J. P. Strode. | S. B. Hough. |
| E. S. Jewett. | L. B. Sawyer. |
| W. A. Kelly. | L. E. Wynne. |

Wm. Clough, Sergeant at Arms.

Councilmen—Lower House.

| | |
|---------------------------|-------------------------------|
| 1st Ward—Jas. Pendergast. | 8th Ward—Wm. J. Campbell. |
| 2d Ward—John Conlon. | 9th Ward—Wm. H. Otto. |
| 3d Ward—Jno. P. O'Neill. | 10th Ward—Jas. Fairweather. |
| 4th Ward—Geo. F. Berry. | 11th Ward—Jos. Hopkins. |
| 5th Ward—Jas. Doarn. | 12th Ward—Frank W. Tuttle. |
| 6th Ward—J. P. Lynch. | 13th Ward—Jno. W. Mulholland. |
| 7th Ward—Chas. Adkins. | 14th Ward—Edward L. Winn. |

W. D. Scoville, Sergeant at Arms.

City Officers.

| | |
|---------------------------------------|--|
| Mayor.....James A. Reed | Supt. Buildings.....M. McTernan |
| Mayor's Secretary.....J. G. L. Harvey | Plumbing Inspector Edward Blanchard |
| Treasurer.....James Cowgill | Supt. Work House....W. P. Buckner |
| Auditor.....D. V. Kent | Chief Police.....John Hayes |
| Police Judge.....*T. B. McAuley | Chief Fire Dept.....Geo. C. Hale |
| Police Judge.....Herman Brumback | License Inspector....B. E. Sylvester |
| Attorney.....Frank Gordon | Market Master.....Edward Cadman |
| Counselor.....R. B. Middlebrook | Insp. Weights and Meas. Wm. Hudgens |
| First Assistant.....H. S. Hadley | Boiler Inspector.....Morris Higgins |
| Second Assistant.....S. S. Winn | Elevator Inspector....†Leslie Hopkins |
| Comptroller.....Hans Lund | Elevator Inspector.....W. C. Bell |
| Clerk.....C. S. Curry | Supt. Water Works..D. W. Longwell |
| Assessor.....C. C. Yost | Assr. and Col. Water Rates. S. M. Ford |
| Physician.....G. O. Coffin | |

*Election Contested—Unseated.

†Resigned.

Members of Board of Public Works.

| | |
|--|--------------|
| T. M. Spofford, ex-officio, President. | Wm. Wright. |
| Geo. Kumpf. | S. J. Hayde. |

Board of Park Commissioners.

| | |
|-------------------------|----------------------------|
| A. R. Meyer, President. | Wm. Barton. |
| J. V. C. Karnes. | J. K. Burnham. |
| A. Van Brunt. | Geo. E. Kessler, Engineer. |

Board of Police Commissioners.

| | | |
|---------------------------|--------------------|---------------|
| James A. Reed, President. | Robert L. Gregory. | Hugh C. Ward. |
|---------------------------|--------------------|---------------|

Board of Election Commissioners.

| | | |
|-------------------------|----------------------------|-----------------|
| H. C. Arnold, Chairman. | J. H. Lipscomb, Secretary. | C. E. Washburn. |
|-------------------------|----------------------------|-----------------|

OFFICIAL REGISTER.

1902-03.

Aldermen—Upper House.

| | |
|--------------------------------------|--------------------|
| Geo. M. Shelley, President. | B. Scott Cromwell. |
| S. C. Woodson. | J. W. Miers. |
| Jno. T. Murray. | Geo. B. Berry. |
| Baylis Steele. | Wm. M. Sloan. |
| William Abel. | W. J. Knepp. |
| J. P. Strode. | L. B. Sawyer. |
| W. C. Tyree. | J. M. Rood. |
| Geo. S. McLanahan, Sergeant at Arms. | |

Councilmen—Lower House.

| | |
|-----------------------------------|-----------------------------|
| 1st Ward—Jas. Pendergast. | 8th Ward—R. P. Greenlee. |
| 2d Ward—D. F. Martin. | 9th Ward—W. H. Otto. |
| 3d Ward—J. F. Lumpkin. | 10th Ward—H. B. Mann. |
| 4th Ward—W. S. Umbarger. | 11th Ward—C. L. V. Medrick. |
| 5th Ward—Jno. Scanlon. | 12th Ward—F. W. Tuttle. |
| 6th Ward—Jno. P. Lynch. | 13th Ward—F. L. Middleton. |
| 7th Ward—Chas. A. Adkins. | 14th Ward—Edw. L. Winn. |
| W. D. Scoville, Sergeant at Arms. | |

City Officers.

| | |
|--|--------------------------------------|
| Mayor.....James A. Reed | Plumbing Inspector..Edward Blanchard |
| Mayor's Secretary.....J. G. L. Harvey | Supt. Work House.....W. P. Buckner |
| Treasurer.....James Cowgill | Chief Police.....John Hayes |
| Auditor.....D. V. Kent | Chief Fire Dept.....Edward Trickett |
| Police Judge.....H. C. Brady | License Inspector...Ben E. Sylvester |
| Clerk Police Court..*Schuyler C. Kelly | Ins. Weights and Meas..... |
| Clerk Police Court....B. Frank Black |William Hudgens |
| Attorney.....J. L. Morgan | Market Master.....Edward Cadman |
| Counselor.....R. J. Ingraham | Boiler Inspector.....*Morris Higgins |
| Assessor.....Geo. Holmes | Boiler Inspector.....Thomas J. Ryan |
| Assessor.....E. J. Becker | Elevator Inspector.....W. C. Bell |
| Comptroller.....Andrew E. Gallagher | Supt. Water Works....W. G. Goodwin |
| Clerk.....E. J. Becker | Assr. and Col. Water Works..... |
| Clerk.....Baxter Brown |Daniel O'Byrne |
| Physician.....J. M. Langsdale | Electrician.....B. C. Haldeman |
| Supt. Buildings.....M. McTernan | |
| *Resigned. | |

Members of Board of Public Works.

| | |
|---|--------------|
| Geo. M. Shelley, ex-officio, President. | Wm. Wright. |
| A. J. Mehl. | S. J. Hayde. |

Board of Park Commissioners.

| | |
|----------------------------|--------------------------------------|
| J. J. Swofford, President. | F. P. Neal. |
| J. F. Richards. | Patrick Moore. |
| Chas. J. Schmelzer. | Geo. E. Kessler, Secy. and Engineer. |

Board of Police Commissioners.

| | | | |
|---------------------------|----------------|----------------|-------------|
| James A. Reed, President. | Wm. T. Kemper. | *F. P. Sebree. | D. J. Dean. |
| *Resigned. | | | |

Board of Election Commissioners.

| | | |
|-------------------------|----------------------------|-----------------|
| H. C. Arnold, Chairman. | J. H. Lipscomb, Secretary. | C. E. Washburn. |
|-------------------------|----------------------------|-----------------|

OFFICIAL REGISTER.

1904-05.

Aldermen—Upper House.

| | |
|--------------------------------|-----------------|
| Henry M. Beardsley, President. | C. A. Young. |
| Wm. Abel. | C. E. Zinn. |
| J. E. Brady. | S. C. Woodson. |
| Wm. M. Sloan. | Baylis Steele. |
| J. W. Miers. | Chas. Weill. |
| Geo. Hoffmann. | J. T. Murray. |
| E. S. Jewett. | B. S. Cromwell. |
| Wm. Clough, Sergeant at Arms. | |

Councilmen—Lower House.

| | |
|--------------------------------|---------------------------|
| 1st Ward—Jas. Pendergast. | 8th Ward—A. J. Kelly, Jr. |
| 2d Ward—C. J. Cronin. | 9th Ward—M. C. Wuerz. |
| 3d Ward—W. S. Umbarger. | 10th Ward—H. B. Mann. |
| 4th Ward—Jno. Scanlon. | 11th Ward—D. A. Spalding. |
| 5th Ward—Chas. G. Laundry. | 12th Ward—Jos. Weston. |
| 6th Ward—Jos. E. Halpin. | 13th Ward—E. W. Davis. |
| 7th Ward—J. D. Havens. | 14th Ward—Edw. L. Winn. |
| Ed. E. Pugh, Sergeant at Arms. | |

City Officers.

| | |
|--|--------------------------------------|
| Mayor.....Jay H. Neff | Plumbing Inspector.....E. McKeighan |
| Mayor's Secretary.....O. P. Bloss | Supt. Work House.....C. C. Anderson |
| Treasurer.....A. E. Holmes | Chief Police.....John Hayes |
| Auditor.....L. E. Koehler | Chief Fire Dept.....Edward Trickett |
| Police Judge.....H. C. Brady | License Inspector.....W. H. Harrison |
| Clerk Police Court.....Nelson C. Crews | Insp. Weights and Meas...†J. E. Cord |
| Attorney.....John N. Swenson | Market Master.....J. Ed. Jewell |
| Counselor.....R. J. Ingraham | Boller Inspector.....Henry Bernauer |
| Assessor.....*E. J. Becker | Elevator Inspector....C. J. Tompkins |
| Comptroller.....Gus Pearson | Electrician.....‡A. J. Burns |
| Clerk.....Baxter Brown | Supt. Water Works.....S. Y. High |
| Physician.....**J. M. Langsdale | Assr. and Coll. Water Works..... |
| Supt. Buildings.....S. E. Edwards |Elmer N. Powell |
| *Succeeded by Geo. Himes. | **Succeeded by St. Elmo Sanders. |
| †Succeeded by Jas. Davidson. | ‡Succeeded by C. M. Caldwell. |

Members of Board of Public Works.

| | |
|---------------------------------|---------------------|
| Henry M. Beardsley, ex-officio, | E. I. Farnsworth. |
| President. | *E. E. Porterfield. |
| P. S. Brown, Jr. | W. J. Medes. |
| *Resigned. | |

Board of Park Commissioners.

| | |
|-----------------------------|----------------------------|
| Franklin Hudson, President. | Robert L. Gregory. |
| Geo. W. Fuller. | A. J. Dean. |
| Fred S. Doggett. | Geo. E. Kessler, Engineer. |

Board of Police Commissioners.

| | | |
|-------------------------|------------------|-----------------|
| Jay H. Neff, President. | A. E. Gallagher. | F. F. Rozzelle. |
|-------------------------|------------------|-----------------|

Board of Election Commissioners.

| | | |
|----------------------------|--------------------------|-----------------|
| Frank P. Sebree, Chairman. | B. F. Paxton, Secretary. | H. C. McDougal. |
|----------------------------|--------------------------|-----------------|

OFFICIAL REGISTER.

1906-07.

Aldermen—Upper House.

| | |
|-----------------------------|-----------------|
| George Hoffmann, President. | W. A. Bunker. |
| Geo. H. Edwards. | C. A. Young. |
| Jos. D. Havens. | C. E. Zinn. |
| Wm. M. Sloan. | A. O. Thompson. |
| J. P. Tillhof. | Baylis Steele. |
| J. F. Eaton. | Chas. Weill. |
| E. S. Jewett. | Chas. L. Merry. |

J. C. Bonsack, Sergeant at Arms.

Councilmen—Lower House.

| | |
|----------------------------|-----------------------------|
| 1st Ward—Jas. Pendergast. | 8th Ward—W. T. Green. |
| 2d Ward—E. T. Groves. | 9th Ward—F. J. Shinnick. |
| 3d Ward—W. P. Woolf. | 10th Ward—E. E. Morris. |
| 4th Ward—M. F. Bulger. | 11th Ward—D. R. Spalding. |
| 5th Ward—Chas. G. Launder. | 12th Ward—Jos. Weston. |
| 6th Ward—Jos. E. Halpin. | 13th Ward—L. F. Hartman. |
| 7th Ward—J. G. Lapp. | 14th Ward—B. J. Fradenburg. |

Ed. E. Pugh, Sergeant at Arms.

City Officers.

| | |
|-------------------------------------|---------------------------------------|
| Mayor.....Henry M. Beardsley | Chief Police.....†Jno. Hayes |
| Mayor's Secretary.....O. P. Bloss | Chief Fire Dept.....J. C. Egner |
| Treasurer.....A. E. Holmes | Fire Warden.....Edw. Trickett |
| Auditor.....D. V. Kent | License Inspector.....W. H. Harrison |
| Police Judge.....H. G. Kyle | Insp. Weights and Meas..... |
| Clerk Police Court.....N. C. Crews |†Leo E. Koehler |
| Attorney.....Jno. N. Swenson | Market Master.....J. E. Jewell |
| Counselor.....Edwin C. Meservey | Boller Inspector.....Henry Bernauer |
| Assessor.....*Geo. Himes | Elevator Inspector.....C. J. Tompkins |
| Comptroller.....Gus Pearson | Electrician.....C. M. Caldwell |
| Clerk.....Wm. Clough | Food Inspector.....W. P. Cutler |
| Physician.....St. Elmo Sanders | Chemist.....W. M. Cross |
| Supt. Buildings.....S. E. Edwards | Supt. Water Works.....S. Y. High |
| Plumbing Inspector.....E. McKeighan | Assr. and Col. Water Works..... |
| Supt. Work House...**C. C. Anderson |J. B. Lawrence |

*Succeeded by Leo. E. Koehler.

**Succeeded by J. L. McCracken.

†Succeeded by Daniel Ahern.

‡Succeeded by Jno. Spitzkaufsky.

Members of Board of Public Works.

| | |
|---|-------------------|
| George Hoffmann, ex-officio, President. | E. I. Farnsworth. |
| P. S. Brown, Jr. | W. J. Medes. |

Board of Park Commissioners.

| | |
|-----------------------------|----------------------------|
| Franklin Hudson, President. | Geo. T. Hall. |
| Geo. W. Fuller. | A. J. Dean. |
| Fred S. Doggett. | Geo. E. Kessler, Engineer. |

Board of Police Commissioners.

| | | |
|-----------------------------|------------------|------------------|
| A. M. Beardsley, President. | A. E. Gallagher. | *F. F. Rozzelle. |
| *Succeeded by E. H. Jones. | | |

Board of Election Commissioners.

| | | |
|-------------------------|--------------------------|-----------------|
| F. P. Sebree, Chairman. | B. F. Paxton, Secretary. | H. C. McDougal. |
|-------------------------|--------------------------|-----------------|

OFFICIAL REGISTER.

1908-09.

Aldermen—Upper House.

Robt. L. Gregory, President.
Geo. H. Edwards.
Jos. D. Havens.
Jas. E. Logan.
*J. F. Eaton.
J. P. Tillhof.
R. Emmett O'Malley.

W. A. Bunker.
W. C. Culbertson.
Isaac Taylor.
A. O. Thompson.
Baylis Steele.
J. C. Wirthman.
J. P. Titsworth.

†M. A. Flynn, Sergeant at Arms.

*Deceased; succeeded by C. J. Cronin.

†Resigned; succeeded by James Bermingham.

Councilmen—Lower House.

1st Ward—Jas. Pendergast.
2d Ward—M. J. O'Hearn.
3d Ward—W. P. Woolf.
4th Ward—M. F. Bulger.
5th Ward—D. A. Brown.
6th Ward—M. Cunningham.
7th Ward—J. G. Lapp.

8th Ward—*C. B. Hayes.
9th Ward—F. J. Shinnick.
10th Ward—E. E. Morris.
11th Ward—E. P. Madorie.
12th Ward—F. D. Askew.
13th Ward—C. J. Gilman.
14th Ward—R. L. Smith.

W. D. Scoville, Sergeant at Arms.

*Deceased; succeeded by Clarence Wofford.

CITY OFFICERS.

Mayor, Thomas T. Crittenden, Jr.
Mayor's Secretary, .. Wilson L. Overall.
Treasurer, W. J. Baehr.
Auditor, Vernon H. Greene.
Judge Municipal Court, ... H. G. Kyle.
Clerk Municipal Court, ... John McCord.
Attorney, Cliff Langsdale.
Counselor, *Edwin C. Meservey.
Counselor, John T. Harding.
Assessor, *Leo. E. Koehler.
Assessor, H. C. Gilbert.
Clerk, *William Clough.
Clerk, M. A. Flynn.
Comptroller, Gus Pearson.
Supt. Buildings, John T. Nell.
Plumbing Inspector, ... E. J. Blanchard.
Com. St. Cleaning, ... T. J. Pendergast.
Supt. Workhouse, ... Patrick O'Hearn.
Supt. Workhouse, ... Cornelius Murphy.
Chief Fire Dept., J. C. Egner.
Fire Warden, Edward Trickett.
Chief Police, Daniel Ahern.

*Term of office expired.

†Resigned.

Chief Police, Frank F. Snow.
License Inspector, Thomas Phillips.
Insp't'r Wgts. & Meas., W. G. Winstead.
Market Master, Meyer Wechsler.
Boiler Inspector, Thomas J. Ryan.
Elevator Inspector, Frank Gaultitz.
Chief Eng. Waterw'rks, W. G. Goodwin.
Assessor and Collector
Water Rates, George M. Shelley.
Electrician, *C. M. Caldwell.
Electrician, L. G. Smith.
Food Inspector, Frank J. Hall.
Gas Inspector, *Samuel F. Scott.
Gas Inspector, George H. Foote.
Sup'vs'r Lights, .. Edward J. McMahon.
Elec. Meter Insp., ... O'Fallon Jenkins.
Health Com., Dr. W. S. Wheeler.
City Engineer, James L. Darnell.
Supt. Street Repairs, ... Jas. A. Gallaher.
Supt. General Hospital,
..... Dr. G. Wilse Rob'nson.
Supt. Trees, Stephen C. Woodson

OFFICIAL REGISTER.

Board of Public Works.

| | |
|--|-----------------|
| Robt. L. Gregory, ex-officio, President. | Wallace Love. |
| L. S. Banks. | R. H. Williams. |

Board of Fire and Water Commissioners.

| | | |
|-----------------------------|--------------|--------------|
| Frank S. Groves, President. | Kelly Brent. | G. M. Myers. |
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Board of Pardons and Paroles.

| | | |
|------------------------|------------------|--------------------|
| Wm. Volker, President. | Jacob Billikoff. | Mrs. Kate Pierson. |
|------------------------|------------------|--------------------|

*Board of Park Commissioners.

| | |
|-----------------------------|----------------------------|
| Franklin Hudson, President. | Fred S. Doggett. |
| Geo. W. Fuller. | A. J. Dean. |
| Geo. T. Hall. | Geo. E. Kessler, Engineer. |

*Terms of office ended April, 1909.

Board of Park Commissioners.

| | | |
|------------------------|-------------|-----------------|
| A. J. Dean, President. | D. J. Haff. | Jno. W. Wagner. |
|------------------------|-------------|-----------------|

Public Utilities Commission.

| | |
|----------------------------|---------------------------|
| Elihu W. Hayes, President. | R. W. Hocker. |
| I. E. Bernheimer. | J. N. Penrod. |
| Jno. J. Green. | Jno. N. Payne. |
| Jno. T. Smith. | Jos. A. Guthrie, Counsel. |

Hospital and Health Board.

| | | |
|-----------------------------|----------------|---------------|
| Chas. W. Armour, President. | E. F. Swinney. | W. P. Motley. |
|-----------------------------|----------------|---------------|

Board of Police Commissioners.

| | |
|-----------------------------------|----------------------------|
| T. T. Crittenden, Jr., President. | †E. H. Jones. |
| *A. E. Gallagher, | †Succeeded by T. R. Marks. |

*Succeeded by R. B. Middlebrook.

Board of Election Commissioners.

| | | |
|-----------------------|--------------------------|-----------------|
| J. M. Lowe, Chairman. | D. B. Holmes, Secretary. | U. S. Epperson. |
|-----------------------|--------------------------|-----------------|

Constitution of the United States

SECTIONS WHICH LIMIT THE POWER OF A MUNICIPALITY AND ITS OFFICERS.

ARTICLE I.

OF THE LEGISLATIVE POWER.

Sec. 10. No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE IV.

MISCELLANEOUS PROVISIONS.

Section 1. **Records and Judicial Proceedings of Sister States.**—Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other state. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Sec. 2. **Privileges and Immunities of the Citizens of Several States.**—The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

CONSTITUTION OF THE UNITED STATES.

AMENDMENTS TO THE CONSTITUTION.

ARTICLE XIV.

Section 1. **Citizenship—Rights of Citizens—Due Process of Law and Equal Protection of the Laws.**—All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

ARTICLE XV.

Section 1. **Elective Franchise.**—The rights of citizens of the United States to vote shall not be denied or abridged by the United States, or any State, on account of race or color, or previous condition of servitude.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

Constitution of the State of Missouri

SECTIONS BEARING UPON THE POWERS, DUTIES AND LIMITATIONS
OF KANSAS CITY AND HER OFFICERS.

ARTICLE II.

BILL OF RIGHTS.

Sec. 11. Freedom From Search and Seizure, Requisites of Warrant.—That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation reduced to writing.

Sec. 15. Ex Post Facto Laws, Etc., Prohibited.—That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be passed by the General Assembly.

Sec. 17. Right to Bear Arms, When.—That the right of no citizen to keep and bear arms in defense of his home, person and property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons.

Sec. 18. Officers to Attend Personally to Duties.—That no person elected or appointed to any office or employment of trust or profit under the laws of this State, or any ordinance of any municipality in this State, shall hold such office without personally devoting his time to the performance of the duties to the same belonging.

Sec. 19. Collectors, Receivers, Etc., in Default, Ineligible to Office.—That no person who is now or may hereafter become a collector or receiver of public money, or assistant or deputy of such collector or receiver, shall be eligible to any office of trust or profit in the State of Missouri under the laws thereof, or of any municipi-

CONSTITUTION OF MISSOURI.

pality therein, until he shall have accounted for and paid over all the public money for which he may be accountable.

Sec. 20. Property Not to Be Taken for Private Use—Public Use a Judicial Question.—That no private property can be taken for private use, with or without compensation, unless by the consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in such manner as may be prescribed by law; and that whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and as such judicially determined, without regard to any legislative assertion that the use is public.

Sec. 21. Property For Public Use—Compensation.—That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be prescribed by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad tracks without consent of the owner thereof shall remain in such owner, subject to the use for which it is taken.

Sec. 29. People, Right to Assemble and Petition.—That the people have the right peaceably to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

Sec. 30. Due Process of Law—Person.—That no person shall be deprived of life, liberty or property without due process of law.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

Sec. 12. Members of General Assembly Cannot Hold Other Offices.—No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office under this State, or any municipality thereof; and no member of Congress

CONSTITUTION OF MISSOURI.

or person holding any lucrative office under the United States, or this State, or any municipality thereof (militia officers, justices of the peace and notaries public excepted), shall be eligible to either house of the General Assembly, or remain a member thereof, after having accepted any such office or seat in either house of Congress.

Sec. 47. Municipalities, Loaning Credit of.—The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit, or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company: *Provided*, That this shall not be so construed as to prohibit the General Assembly from providing by law for authorizing the creation, maintenance and management of a fund for the pensioning of crippled and disabled firemen, and for the relief of the widows and minor children of deceased firemen, by such cities, villages or incorporated towns as may have an organized fire department—said fund to be taken from the municipal revenue of such cities, villages or incorporated towns.

Sec. 48. Public Officers, Agents, Etc., Extra Pay Prohibited.—The General Assembly shall have no power to grant, or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

Sec. 51. Corporation Debts, Release Prohibited.—The General Assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State, or to any county or other municipal corporation therein.

Sec. 53. Special and Local Laws Prohibited.—The General Assembly shall not pass any local or special law:

Authorizing the creation, extension or impairing of liens;

Regulating the affairs of counties, cities, townships, wards or school districts;

Changing the names of persons or places;

Changing the venue in civil or criminal cases;

CONSTITUTION OF MISSOURI.

Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

Vacating roads, town plats, streets or alleys;

Relating to cemeteries, grave yards or public grounds not of the State;

Authorizing the adoption or legitimation of children;

Locating or changing county seats;

Incorporating cities, towns or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the places of voting;

Granting divorces;

Erecting new townships, or changing township lines, or the lines of school districts;

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors or persons under disability;

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining or manufacturing;

Creating corporations, or amending, renewing, extending or explaining the charter thereof;

Granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track;

CONSTITUTION OF MISSOURI.

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their official duties, or their securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or empaneling grand or petit juries;

For limitation of civil actions;

Legalizing the unauthorized or invalid acts of any officer or agent of the State, or of any county or municipality thereof. In all other cases where a general law can be made applicable, no local or special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined, without regard to any legislative assertion on that subject.

Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

Sec. 54. Local and Special Laws, Notice of.—No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the General Assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the General Assembly before such act shall be passed, and the notice shall be recited in the act according to its tenor.

ARTICLE VI.

JUDICIAL DEPARTMENT.

Section 1. Judicial Power of State, Where Vested.—The judicial power of the State, as to matters of law and equity, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, the St. Louis Court of Appeals, circuit courts, criminal courts, probate courts, county courts and municipal corporation courts. (Amended so as to include the Kansas City Court of Appeals.)

CONSTITUTION OF MISSOURI.

Sec. 3. Supreme Court, Superintending Control of.—The Supreme Court shall have a general superintending control over all inferior courts. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari and other original remedial writs, and to hear and determine the same.

Sec. 22. Circuit Court, Jurisdiction and Terms.—The Circuit Court shall have jurisdiction over all criminal cases not otherwise provided for by law; exclusive original jurisdiction in all civil cases not otherwise provided for; and such concurrent jurisdiction with and appellate jurisdiction from inferior tribunals and justices of the peace as is or may be provided by law. It shall hold its terms at such times and places in each county as may be by law directed; but at least two terms shall be held every year in each county.

Sec. 23. Circuit Court, Superintending Control of.—The Circuit Court shall exercise a superintending control over criminal courts, probate courts, county courts, municipal corporation courts, justices of the peace, and all inferior tribunals in each county in their respective circuits.

ARTICLE VIII.

SUFFRAGE AND ELECTIONS.

Sec. 2. Electors, Qualifications of.—Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

First, he shall have resided in the State one year immediately preceding the election at which he offers to vote:

Second, he shall have resided in the county, city or town where he shall offer to vote at least sixty days immediately preceding the election.

Sec. 3. Elections, How Conducted and Contested.—All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the

CONSTITUTION OF MISSOURI.

name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any voter shall have voted, unless required to do so as witnesses in a judicial proceeding; *Provided*, That in all cases of contested elections the ballots cast may be counted, compared with the list of voters, and examined under such safeguards and regulations as may be prescribed by law.

Sec. 4. Voters Free From Arrest, When.—Voters shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

Sec. 5. Registration in Cities and Counties.—The General Assembly shall provide, by law, for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants, and may provide for such registration in cities having a population exceeding twenty-five thousand inhabitants and not exceeding one hundred thousand, but not otherwise.

Sec. 6. Elections Viva Voce, When.—All elections, by persons in a representative capacity, shall be *viva voce*.

Sec. 7. Residence as Voter Not Gained or Lost, When.—For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence while employed in the service, either civil or military, of this State, or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or of the high seas, nor while a student of any institution of learning, nor while kept in a poor house or other asylum at public expense, nor while confined in public prison.

Sec. 8. Who Disqualified as Voters.—No person, while kept at any poor house or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this State.

Sec. 9. Contested Elections, Trial of, Etc.—The trial and determination of contested elections of all public officers, whether State, judicial, municipal or local, except Governor and Lieutenant-Governor, shall be by the courts of law, or by one or more of the judges thereof. The General Assembly shall, by general law, designate the court or judge by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law, assigning jurisdiction or regulating

CONSTITUTION OF MISSOURI.

its exercises, shall apply to any contest arising out of any election held before said law shall take effect.

Sec. 10. **Criminals May Be Disqualified.**—The General Assembly may enact laws excluding from the right of voting all persons convicted of felony or other infamous crime, or misdemeanors connected with the exercise of the right of suffrage.

Sec. 11. **Officers, Soldiers and Marines Disqualified.**—No officer, soldier or marine in the regular army or navy of the United States shall be entitled to vote at any election in this State.

Sec. 12. **Aliens Not to Be Appointed or Elected.**—No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding his election or appointment.

ARTICLE IX.

COUNTIES, CITIES AND TOWNS.

Sec. 6. **Municipalities Not to Subscribe to Capital Stock of Corporations.**—No county, township, city or other municipality shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation or donation, or loan its credit to or in aid of any such corporation or association, or to or in aid of any college or institution of learning or other institution, whether created for or to be controlled by the State or others. All authority heretofore conferred for any of the purposes aforesaid by the General Assembly, or by the charter of any corporation, is hereby repealed; *Provided, however,* That nothing in this Constitution contained shall affect the right of any such municipality to make such subscription, where the same has been authorized under existing laws by a vote of the people of such municipality prior to its adoption, or to prevent the issue of renewal bonds, or the use of such other means as are or may be prescribed by law for the liquidation or payment of such subscription, or of any existing indebtedness.

Sec. 7. **Cities and Towns, Organization and Classification.**—The General Assembly shall provide, by general laws, for the or-

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ganization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.

Sec. 13. Fees of County or City Officers, Limit—Quarterly Returns.—The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return, quarterly, to the county court of all fees by him received, and of the salaries by him actually paid to his deputies or assistants, stating the same in detail, and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury.

Sec. 14. Extra Officers, Duties and Terms.—Except as otherwise directed by this Constitution, the General Assembly shall provide for the election or appointment of such other county, township and municipal officers as public convenience may require; and their terms of office and duties shall be prescribed by law; but no term of office shall exceed four years.

Sec. 15. City and County Governments, Consolidation of.—In all counties having a city therein containing over one hundred thousand inhabitants, the city and county government thereof may be consolidated in such manner as may be provided by law.

Sec. 16. Large Cities May Frame Their Own Charters, How.—Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board or a majority of them. Within thirty days thereafter, such a proposed charter shall be submitted to the

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qualified voters of such city, at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the law-making authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State.

Sec. 17. Provisions of Such Charters.—It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate, and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

Sec. 18. No Person to Be State and Municipal Officer, Etc.—In cities or counties having more than two hundred thousand inhabitants, no person shall, at the same time, be a State officer and an officer of any county, city or other municipality; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace or officers of the militia.

Sec. 19. Municipal Indebtedness, Payment of.—The corporate authorities of any county, city, or other municipal subdivision of this State, having more than two hundred thousand inhabitants, which has already exceeded the limit of indebtedness prescribed in section twelve of article X of this Constitution, may, in

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anticipation of the customary annual revenue thereof, appropriate, during any fiscal year, toward the general governmental expenses thereof, a sum not exceeding seven-eighths of the entire revenue applicable to general governmental purposes (exclusive of the payment of the bonded debt of such county, city or municipality) that was actually raised by taxation alone during the preceding fiscal year; but until such excess of indebtedness cease, no further bonded debt shall be incurred, except for the renewal of other bonds.

ARTICLE X.

REVENUE AND TAXATION.

Section 1. Taxing Power, How Exercised.—The taxing power may be exercised by the General Assembly for State purposes, and by counties and other municipal corporations, under authority granted to them by the General Assembly, for county and other corporate purposes.

Sec. 2. Power to Tax Corporations Not to Be Surrendered.—The power to tax corporations and corporate property shall not be surrendered or suspended by act of the General Assembly.

Sec. 3. Taxes For Public Purposes Must Be Uniform.—Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.

Sec. 4. Taxes in Proportion to Value.—All property subject to taxation shall be taxed in proportion to its value.

Sec. 5. Railway Corporations, Taxed For What Purposes.—All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises and their capital stock.

Sec. 6. Property Exempt From Taxation.—The property, real and personal, of the State, counties and other municipal corporation, and cemeteries, shall be exempt from taxation. Lots in in-

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corporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies; *Provided*, That such exemption shall be only by general law.

Sec. 7. Other Exemptions Void.—All laws exempting property from taxation, other than the property above enumerated, shall be void.

Sec. 9. Liability of Municipalities—No Commutation.—No county, city, town or other municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

Sec. 11. Rates For Local Purposes—Limits—How Increased For Schools and Erecting Public Buildings.—Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for State and county purposes. For county purposes the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed fifty cents on the hundred dollars valuation; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars valuation; in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars valuation; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars valuation. For city and town purposes the annual rate on property in cities and towns having thirty thousand inhabitants or more shall not, in the aggregate, exceed one hundred cents on the hundred dollars valuation; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars valuation; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars valuation; and in towns having one thousand

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inhabitants or less, said rate shall not exceed twenty-five cents on the hundred dollars valuation. For school purposes in districts, the annual rate on property shall not exceed forty cents on the hundred dollars valuation; *Provided*, The aforesaid annual rates for school purposes may be increased, in districts formed of cities and towns, to an amount not to exceed one dollar on the hundred dollars valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are tax-payers, voting at an election held to decide the question, vote for said increase. For the purpose of erecting public buildings in counties, cities or school districts, the rates of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city, or school district, voting at such election, shall vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the State, or of the United States; said restrictions as to rates shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing, or bonds which may be issued in renewal of such indebtedness.

Sec. 12. Municipal Indebtedness, Limit of.—No county, city, town, township, school district or other political corporation or subdivision of the State, shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness; *Provided*, That with such assent any county may be allowed to become indebted to a larger amount for the erection of a court house or jail, or for the grading, constructing, paving or maintaining of paved, graveled, macadamized or rock roads and necessary bridges and culverts therein; *And provided, further*, That any county, city, town, township, school district

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or other political corporation or subdivision of the State, incurring any indebtedness, requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for payment of the principal thereof, within twenty years from the time of contracting the same; *Provided, further*, That the provisions of this section shall not apply to counties having cities that now have or which may hereafter have, one hundred thousand or more inhabitants; nor to cities that now have or may hereafter have over three hundred thousand inhabitants; [*Provided*, That in the City of St. Louis the amount of bonds now aggregating \$6,111,000, that being the amount assumed by said city in the scheme of separation from the county of St. Louis, and the sum of \$5,808,000, heretofore, prior to January 1, 1901, expended in the construction of waterworks for the City of St. Louis, and any bonds which may be hereafter issued by said city in the construction and improvement of waterworks, the payment of the interest whereon and the principal whereof shall be provided from the revenue of said waterworks; that is to say, the amount of said bonds which shall be outstanding at any time shall not be included in the computation of the existing bonded indebtedness in determining the amount of bonds authorized to be issued by said city with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid, to an amount including the outstanding indebtedness other than that above named, to the amount of five per cent. of the value of the taxable property in said city, to be ascertained as above provided, and said city shall have power, with such assent of the voters, to issue bonds for the construction and improvement of waterworks, the interest whereon and the principal whereof shall be provided for from the income of said waterworks. Said city shall establish a sinking fund for the payment of the bonds so authorized according to the time fixed for the maturity of the same; *Provided, further*, That in the city of Kansas City, the amount of bonds issued by said city, bearing date July 1, 1895, for acquiring waterworks and all bonds hereafter issued in renewal of said bonds or any portion thereof shall not be included in the computation of the existing bonded indebtedness of said city in determining the amount of bonds authorized to be issued by said city, with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid to an amount including outstand-

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ing indebtedness, other than that above named, to the amount of five per centum of the value of the taxable property in said city to be ascertained as above specified; *And provided, further*, That the corporate authorities of the City of St. Louis are hereby authorized to issue interest bearing bonds of said city in the amount of five million dollars, at a rate of interest not to exceed four per cent. per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the corporation organized for the celebration of the Louisiana Purchase Centennial in said city, to be used by said corporation for said celebration, in holding a world's fair or exposition in said city. And said corporate authorities of St. Louis shall be repaid as large a proportionate amount of the aid given by them as shall be repaid to the stockholders of said corporation on the sum subscribed and paid by them, and any surplus remaining from the assets of said corporation after said stockholders and said city shall have been paid in full, shall be divided between said stockholders and said city in proportion to the aggregate amount of said stock so paid in and the amount so loaned by said city; and any amount so received by said city from said corporation shall be paid into the sinking fund of said city for the redemption of its outstanding bonds; *Provided*, That if at the election for the adoption of this amendment to the Constitution a majority of the votes cast within the limits of said City of St. Louis voting for and against this amendment shall be against its adoption, then no bonds shall be issued under this amendment; *And provided, further*, That no such indebtedness so created shall be in any part thereof paid by the State or from any State revenue, tax or fund, but the same shall be paid by the City of St. Louis alone.]

Sec. 13. Private Property Not to Be Sold For Corporate Debt.—Private property shall not be taken or sold for the payment of the corporate debt of a municipal corporation.

Sec. 17. Officer Not to Speculate in Public Funds—Felony.—The making of profit out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

Sec. 20. Money From Loans—How Applied.—The money arising from any loan, debt or liability, contracted by the State, or any county, city, town or other municipal corporation, shall be applied to the purposes for which they were obtained, or to the repayment of such debt or liability, and not otherwise.

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ARTICLE XI.

EDUCATION.

Sec. 11. Religious or Sectarian Schools—Public Funds Not to Be Paid or Property Granted to.—Neither the General Assembly nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

ARTICLE XII.

CORPORATIONS.

Sec. 4. Eminent Domain, Right of State in Corporation Property—Trial.—The exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, or that may be hereafter organized, and subjecting them to the public use, the same as that of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when in the exercise of said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

Sec. 5. Police Power of the State.—The exercise of the police power of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the State.

Sec. 20. Street Railroad, Franchise, How Granted.—No law shall be passed by the General Assembly, granting the right to construct and operate a street railroad within any city, town, village,

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or on any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad; and the franchises so granted shall not be transferred without similar assent first obtained.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS.

Section 1. Public Lands—Taxing Land of United States and Non-Residents.—The General Assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with any regulation which Congress may find necessary for securing the title in such soil to *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

Sec. 5. Tenure of Office.—In the absence of any contrary provision all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified.

Sec. 7. County, City, Etc., Officers—Removed From Office, When.—The General Assembly shall, in addition to other penalties, provide for the removal from office of county, city, town and township officers, on conviction of willful, corrupt or fraudulent violation or neglect of official duty.

Sec. 8. Officers' Fees, Etc., Not to Be Increased Nor Term Extended.—The compensation or fees of no State, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed.

Sec. 9. Appointment of Officers.—The appointment of all officers not otherwise directed by this Constitution shall be made in such manner as may be prescribed by law.

Sec. 11. Officers Having Public Funds, Grand Jury to Investigate.—It shall be the duty of the grand jury in each county, at least once a year, to investigate the official acts of all officers having charge of public funds, and report the result of their investigations, in writing, to the court.

Enabling Act and Statutes Applicable to Kansas City

REFERENCES ARE TO REVISED STATUTES OF MISSOURI FOR 1909.

Section 9703. City of Over 100,000 May Frame Charter—Procedure—Amendments.—Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election, which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter signed by the members of such board, or a majority of them. Within thirty days thereafter such proposed charter shall be submitted to the qualified voters of such city at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city and supersede any existing charter and amendments thereof. A duplicate certificate shall be made setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter so adopted may be amended by a proposal therefor made by the law-making authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State. A duplicate certificate shall be made, setting forth such amendment and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of

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State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. (R. S. 1899, Sec. 6359.)

Sec. 9704. Charter Takes Effect Thirty Days After Adoption.—After the expiration of said thirty days after the ratification and adoption of such charter as aforesaid, such charter shall be and constitute the entire organic law of such city, and shall supersede all laws of this State then in force in terms governing or appertaining to cities having one hundred thousand inhabitants or more (R. S. 1899, Sec. 6360.)

Sec. 9705. Mayor and Two Houses of Legislation—Alternative Sections.—It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter, or any amendment thereto. (R. S. 1899, Sec. 6361.)

Sec. 9706. Time for Electing Board—Notice.—Whenever the law-making authorities of any such city shall deem it advisable for such city to frame a charter for its own government as aforesaid, it shall, by ordinance, fix a time for holding an election for such board of thirteen freeholders, which may be at a general city election, or at any other time, and cause notice of such election to be published for at least twenty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language. (R. S. 1899, Sec. 6362.)

Sec. 9707. Election for Adopting Charter—Notice.—Upon the draft of such charter being returned to such chief magistrate, as aforesaid, the law-making authorities of such city shall forthwith fix the time for holding an election at which such proposed charter shall be submitted to the qualified voters of such city, which may be at a general city election or at any other time, and cause notice of such election to be published for at least twenty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language. At such election the

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form of the ballots may be "for the charter," followed by sufficient space to the right thereof, on which may be written or printed the words *yes* or *no*, in accordance with the choice of the person voting such ballot. In the event of any alternative section or article being presented for the choice of the voters, any form of ballot may be used which will clearly indicate the choice of the person voting such ballot between such alternative sections or articles. (R. S. 1899, Sec. 6363.)

Sec. 9708. Attestation of Ordinances, Etc.—Evidence, When.—All ordinances, resolutions and proceedings of such city may be approved by its corporate seal, attested by the officer having charge thereof, and when printed and published by authority of such city, the same shall be received in evidence in all courts and places without further proof. (R. S. 1899, Sec. 6364.)

Sec. 9709. Persons in Office, Hold Until Election.—All persons in office in such city at the time of the ratification of such charter shall hold their offices until their successors are elected or appointed and qualified, as may be provided in such charter, but no longer. (R. S. 1899, Sec. 6365.)

Sec. 9710. Adoption Not to Affect Existing Rights.—Such charter, in superseding any previous charter and amendments thereof, shall not affect any right, lien or liability accrued, established or subsisting previous to the time when such charter takes effect, nor affect any action or proceeding pending when such charter takes effect; but such right, lien or liability shall be enforced, and such action or proceeding shall be carried on, in all respects, as if such charter had not taken effect; nor shall such charter be in anywise so construed as to affect any right or liability acquired or accrued under the previous charter and amendments superseded thereby, by or on the part of any city, or any person or body corporate. (R. S. 1899, Sec. 6366.)

Sec. 9711. Bonds in Judicial Proceedings.—Such city, in taking an appeal or prosecuting a writ of error in any judicial proceeding, shall give bonds as required by law, but it is hereby released from the obligation of law to furnish security therefor. All such bonds shall be executed by the mayor or chief magistrate of such city, and shall be taken in all courts of this State as full compliance with the law in such cases, and all acts and parts of acts inconsistent with this provision are hereby repealed. (R. S. 1899, Sec. 6367.)

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Sec. 9712. Consistent Ordinances to Remain in Force.—

All ordinances, regulations and resolutions in force at the time such charter takes effect, and not inconsistent with the provisions thereof, shall remain and be in force until altered, modified or repealed by the law-making authorities of such city. (R. S. 1899, Sec. 6368.)

Sec. 9713. Rights of Action Not Affected.—All rights of action, fines, penalties and forfeitures accrued to such city before such charter takes effect shall remain unaffected thereby, and may be prosecuted, recovered and received as fully in every respect as if such charter had not taken effect. (R. S. 1899, Sec. 6369.)

Sec. 9714. City Taxes to be Collected by City Officers.—The county collector of the county in which such city lies shall not, after the taking effect of such charter, collect any taxes or special assessments theretofore or thereafter levied by such city, but the same shall be collected by such city through its own officers. (R. S. 1899, Sec. 6370.)

Sec. 9715. Tax Liens on Realty Vested in City, Etc.—Any lien on real property existing in favor of the State of Missouri, or of such city, at or before the taking effect of such charter, for taxes and special assessments levied by such city, and all right, title and estate acquired by or vested in the State of Missouri or such city, by reason of the forfeiture or sale to the State or such city of any tract of land, town or city lot offered at public sale for taxes or special assessments levied by such city, interest and costs due thereon, and not sold to others for want of bidders, are hereby assigned and transferred to and continued in such city, and all lands, town or city lots forfeited or sold to the State of Missouri or such city on account of taxes or special assessments levied thereon by such city, shall, from the taking effect of such charter, be deemed and taken to be forfeited and sold to such city. In all cases where certificates of purchase have, at the time such charter takes effect, been made out in the name of purchasers at any sale for such delinquent taxes or special assessments, the right to redeem from any such sale, or to a deed or deeds, shall not be affected or impaired by anything in this article or in such charter contained. (R. S. 1899, Sec. 6371.)

Sec. 9716. Census May be Taken—Purpose.—Any city, for the purpose of ascertaining its population with a view solely to placing itself under the provisions of section 9703, may at any time, by an ordinance, and at the expense of such city, cause an

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enumeration of its inhabitants to be made and its population ascertained, and judicial notice of such census and of the population of such city as ascertained thereby, shall be taken by all courts in this State without proof. (R. S. 1899, Sec. 6372.)

Sec. 9717. Courts to Take Judicial Notice of Population.—

The courts of this State shall take judicial notice, without proof, of the population of all cities in this State according to the last enumeration of the inhabitants thereof, State, Federal or municipal, made under or pursuant to any law of this State or of the United States. (R. S. 1899, Sec. 6373.)

Sec. 9718 to Sec. 9742, inclusive, relate to manner of conducting election upon submission of such charter to the voters for ratification. (R. S. 1899, Sec. 6374 to Sec. 6398.)

Sec. 9743. **Extending Limits—To Include Other Incorporated City.**—Any such city, or any other city of ten thousand inhabitants or less, and having a special charter, after the taking effect of such charter, may at any time or times extend its limits by ordinance, specifying with accuracy the new line or lines to which it is proposed to extend such limits. All courts of this State shall take judicial notice of the limits of such city when thus extended, and of all the steps in the proceeding leading thereto; *Provided*, That should such city by such extension of its territorial limits include any portion of any incorporated city, town or village, such extension shall be made to include the whole territory of such incorporated city, town or village, and upon such extension being made, the corporate existence of such incorporated city, town or village, so included in such extension shall, *ipso facto*, cease, and all property and rights of every kind and nature belonging to and vested in such incorporated city, town or village shall, by operation of law, at once pass to and vest in the city making such extension of its limits, and it shall be the duty of all officers and employes of such incorporated city, town or village having custody or control thereof, to surrender and deliver the same to such city so extending its limits; and such city shall also, by operation of law, become liable to pay all debts and liabilities of such incorporated city, town or village: *Provided, further*. That before such city shall extend its limits so as to include any incorporated city, town or village, four-sevenths of the qualified voters of the incorporated city, town or village voting at such election, so desired to be included within the limits of such city shall vote in favor of such proposition, at an election held for that purpose, to be determined in the following manner, to-

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wit: Whenever such city shall desire to include within its limits any incorporated city, town or village, the mayor of such city shall inform the mayor or other chief officer of the incorporated city, town or village proposed to be so taken in of its intention to include said city, town or village within the limits; the mayor thereof shall order a special election, to determine the wish of said city, town or village, giving twenty days' public notice of the time and place of holding such election, and the purpose for which it is to be held—said election to be governed by the general laws governing said city, town or village in respect to the holding of general elections; and if four-sevenths of the qualified voters voting at such election shall vote in favor of the proposed extension, the mayor shall certify the result to the mayor of such city, and such city may proceed to extend its limits as provided in this section; *Provided*, That if the city, the limits of which are to be extended, is organized under section 16 of article 9 of the constitution of this State, then the ordinance extending the limits shall, in all cases where the corporate limits are defined in the charter of such city, be in the form of a proposed amendment to the charter of such city, and before the same shall be of any force or effect it shall be submitted to and accepted by three-fifths of the qualified voters of such city voting at a general or special election, in all respects and in compliance with all the requirements provided for amendments to the charter of such city. (R. S. 1899, Sec. 6399.)

Sec. 9744. Annexed Territory to be Divided Into Wards.—Whenever, by extension of its territorial limits as aforesaid, new territory is annexed to such city, the law-making authorities thereof shall, by ordinance, organize the same into a new ward or wards, or attach the same to some existing ward or wards, long enough before the next ensuing general city election to enable electors in such annexed territory to register, and all other proper steps to be taken according to law, so that the electors of such annexed territory may have full opportunity to register and vote at such election. Actual residents of any territory at the time of the annexation thereof as aforesaid shall, if otherwise qualified, be qualified electors of such city, and be eligible to any office therein at the next general city election following such annexation. (R. S. 1899, Sec. 6400.)

Sec. 9745. City May be Redistricted, When.—Whenever the corporate limits of any such city shall be so extended, and whenever and as often as the population of any such city, or of any ward or wards thereof, has been or may be so increased or diminished as to render, in the opinion of the law-making authorities of such city,

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a revision or redistricting of the corporation into wards or a change in the boundary of any ward or wards necessary, the same may be done by ordinance. (R. S. 1899, Sec. 6401.)

Sec. 9746. Redistricting Ordinance to be Published.—Before such ordinance shall be passed, the same shall be published for at least three weeks in at least one daily newspaper published in such city, to be designated by the law-making authorities of such city, but the failure to make such publication shall in no way affect the validity of such ordinance. (R. S. 1899, Sec. 6402.)

Sec. 9747. Redistricting Not to Affect Eligibility of Electors.—In case of redistricting or division of such city into wards, creation of any new ward or wards, or change of boundary in any ward or wards, every qualified elector residing in any ward at any general city election next thereafter, duly registered, shall be a qualified voter of such ward, and nothing in this article contained shall be so construed as to prevent any elector from voting or being eligible to any office by reason merely of such redistricting or division or creation of any new ward or wards, or change in the boundary of any ward or wards. (R. S. 1899, Sec. 6403.)

Sec. 9748. When Territory Not to be Added.—Territory shall not be annexed to any such city within four months next preceding any general city election, nor shall there be a redistricting or division of the city into wards, or change of boundary of any ward or wards, or creation of any new ward or wards, within two months next preceding any general city election. (R. S. 1899, Sec. 6404.)

Sec. 9749. Wards to be of Adjacent Territory—Numbering.—All wards which may be established by ordinance as aforesaid shall be composed of adjacent and compact territory, and the several wards, at the time of redistricting, shall contain as nearly an equal number of inhabitants as may be practicable. The wards shall be numbered consecutively from one up to the highest number thus established. (R. S. 1899, Sec. 6405.)

Sec. 9750. Election—New Ward.—Whenever any change in the number of wards or alteration in the boundaries of any ward shall be made, or new wards shall be established, there shall be no election of a representative to the municipal legislature for such ward until the general election for corporation officers. (R. S. 1899, Sec. 6406.)

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Sec. 9751. Redistricting Not to Affect Term of Office of Incumbent.—Nothing in this article contained shall be construed to limit or abridge the term of office which any representative in the municipal legislature of such city shall be elected to fill, but every such representative shall be deemed and taken for the residue of the term for which he may have been elected, a representative of that ward in which his actual residence and place of abode may be at the time of any division of such city into wards, creation of any new ward or wards, or change in the boundaries of any ward or wards. (R. S. 1899, Sec. 6407.)

Sec. 9752. City Has Exclusive Control of Public Highways.—Such city shall have exclusive control over its public highways, streets, avenues, alleys and public places, and shall have exclusive power, by ordinance, to vacate or abandon any public highway, street, avenue, alley or public place, or part thereof, any law of this State to the contrary notwithstanding. (R. S. 1899, Sec. 6408.)

Sec. 9753. Regulation of Public Franchises.—It shall be lawful for any such city in such charter, or by amendment thereof, to provide for regulating and controlling the exercise by any person or corporation of any public franchise or privilege in any of the streets or public places of such city, whether such franchises or privileges have been granted by said city, or by or under the State of Missouri, or any other authority. (R. S. 1899, Sec. 6409.)

Sec. 9754. Parks, Cemeteries, Etc.—May be Provided For.—It shall be lawful for any such city to make provision in its charter, or by amendment thereof, to acquire and hold by gift, devise, purchase or by the exercise of the power of eminent domain by condemnation proceedings, lands for public use, either within the corporate boundaries of such city or outside of such corporate boundaries, and within the territorial limits of the county in which such city may be situated, for public parks, cemeteries, penal institutions, hospitals, rights of way for sewers, or for any other public purpose, and to provide for managing, controlling and policing the same. (R. S. 1899, Sec. 6410.)

Sec. 9755. Certain Cities May Issue Bonds for Park Improvements, Etc., and Water Works—Proposition to Be Submitted to Vote—Must Provide for Sinking Fund—Moneys to Be Proportioned to the Several Parks, Etc.—That every city which is now or which may hereafter be organized and exist in this

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state under and by virtue of the provisions of Section 16, Article 9 of the Constitution of this state, is hereby granted power, from time to time to execute, issue and dispose of its negotiable coupon bonds to an amount which, with the then existing indebtedness of such city, shall not exceed the limit of indebtedness of such city prescribed by the constitution of this state and all amendments thereto, for the purpose of improving, developing and adorning the lands held by such city, whether within or outside of the corporate limits of such city, for parks or parkways, including the construction of walks, roads and boulevards thereon or contiguous thereto, and for the purpose of repairing, extending, enlarging, improving and constructing water works and the water works system owned by such city, whether such water works and water works system be wholly within this state or not, and whether the expenditures for the purpose aforesaid be applied to pay for such water works improvements made within or without the limits of this state, and for the purpose of building public hospitals in such cities or for either of the aforesaid purposes: Provided, that such bonds shall not bear more than four per cent. interest per annum, payable semi-annually, and shall not be sold for less than their par value: Provided further, that such city, acting by ordinance, shall first submit to the qualified voters of such city, at any special election held for that purpose, or any general election, a proposal to issue such bonds by such city, which ordinance shall specify the amount of bonds to be issued for the purpose of improving, developing and adorning parks and parkways, including the construction of walks, roads and boulevards thereon and contiguous thereto, and the amount to be issued for the purpose of repairing, enlarging, extending, improving and constructing the water works and water works system, and the amount to be issued for the purpose of building public hospitals, or for either of the said purposes, as the case may be, and thereby obtain the assent to such proposal of two-thirds of the qualified voters of such city voting at such election: Provided further, that any such city shall, before or at the time of incurring the indebtedness of any such bonds, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of contracting such indebtedness: Provided further, that the proceeds arising from the sale or disposition of

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such bonds issued for park or parkway purposes, as aforesaid, shall be apportioned for the improvement of the several parks or parkways owned by such city by ordinance, which shall have been first approved by the board of park commissioners, if any, of such city, and no sum from the proceeds of any issue of such bonds, in excess of the amount so apportioned for any one park or parkway, shall be paid out or expended for the purpose aforesaid upon any park or parkway. (Laws of 1903, p. 85.)

Sec. 9756. Proceedings Shall Conform to Provisions of the Constitution, Etc.—That all of the official proceedings relating to the submission of the proposal to issue the bonds referred to in Section 9755, the taking of the vote thereon, and all official proceedings relating to the authorization, execution, issuance and disposition of the bonds referred to in Section 9755, and the terms of such bonds, shall conform to the provisions of the constitution of this state, and the charter of such city and the ordinances of such city and the laws of the state relating thereto. (Laws of 1903, pp. 85 and 86.)

Sec. 9757. Proposals to be Published.—The proposal to issue the bonds referred to in Section 9755 shall be published for at least thirty days in three newspapers of the largest circulation in such city, one of which shall be a newspaper printed in the German language. Such city may, by ordinance, subject to all laws, provide the form of submitting such proposal to such voters at any election, and for ascertaining the result of the election thereon and making a proper record of the fact. (Laws of 1903, p. 86.)

Sec. 9758. "Board of Park Commissioners" Construed.—In this act the words "Board of Park Commissioners" shall be construed to mean the executive department or official authorities of such city, having the management and control of the parks and parkways of such city. (Laws of 1903, p. 86.)

Sec. 9759. Certain Cities Authorized to Acquire or Build Subways.—All cities of this state having one hundred thousand inhabitants or over are hereby authorized and empowered to build or to acquire, by purchase or otherwise, within their respective corporate limits, a subway or subways, to be exclusively owned by such cities, with such suitable approaches, connections, loops, turn-outs, sidings, stations, exits, entrances and other appurtenances, and land, rights of way and easements and

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estates and rights in land, including the right to go on, under or above the surface, as may be necessary or expedient for the construction and efficient use of such subway or subways for the transportation of persons, baggage, express and freight, and for cars, other means of transportation, pipes, wires and cables used for public service purposes. (Laws of 1907, p. 118.)

Sec. 9760. Authorized to Operate or Lease—Not to Sell, When.—All such cities may operate or may lease such subway or subways, or parts thereof, on terms to be fixed by said cities. Such cities may contract for the purchase or construction of such subway or subways, and for lease of same, and may grant rights therein, or in any part thereof, upon such terms as they may deem best, for cars, other means of transportation, pipes, wires and cables used for public service purposes. But no such lease or grant shall be made for a longer period than fifty years. And such cities may regulate the use of such subway or subways, and of the construction and operation of cars, other means of transportation, pipes, wires and cables used therein: Provided, that such city shall not lease, grant or let such street railroad, street railroad system, subway or subways, or any part thereof, or rights therein, for any purpose whatever, without the assent of a majority of the qualified voters of such city voting for or against such lease, grant or letting at an election held for that purpose. (Laws of 1907, p. 118.)

Sec. 9761. Authorized to Issue Bonds—How Payable.—Any such city may issue and sell, at not less than par, its bonds, payable out of the revenue or income from such subway or subways. (Laws of 1907, p. 118.)

Sec. 9762. Condemnation of Property—Damages.—In any proceeding instituted in any Circuit Court of the State of Missouri by any city now having, or which may hereafter attain, a population of one hundred thousand inhabitants, or more, instituted for the purpose of establishing, opening, widening, or altering any street, avenue, alley, wharf, market place, or public square, or route for a sewer, water-course or water pipe, or for establishing or opening a boulevard, or changing an existing street into a boulevard, or for other public improvements, such city may, on the filing of the report of Commissioners assessing the damages for any property taken or damaged for such purposes, or any of them, with the Clerk of the Circuit Court in

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which such proceeding is pending, pay to the said clerk the amount of damages thus assessed, for the use or benefit of the party or parties in whose favor such damages have been awarded; and, on making such payment, it shall be lawful for such city to hold the interest in the property so appropriated for any of the uses aforesaid, and to enter upon and take possession of such property, and thereupon to proceed with the public improvements for which such property is sought to be taken or damaged; any subsequent proceedings shall affect only the amount of compensation to be allowed for the property taken or damaged, and shall not in any way interfere with the right of such city to the property sought to be acquired or damaged for public purposes. (Laws of 1907, pp. 118 and 119.)

Sec. 9763. In Cities Having Over 100,000 Inhabitants, Certain Officers to Administer Oaths Free.—In all cities having a population of over 100,000 inhabitants in this state, the Mayor, Comptroller, Auditor, Register, Collector, Recorder of Deeds, President of the Board of Assessors, and their deputies, are hereby authorized and required to administer, free of charge, any and all oaths in connection with the business of their offices required to be made or submitted to or before them, by any law or ordinance now in force or which may hereafter be enacted, or which they themselves may deem necessary in the discharge of their official duties. (R. S. 1899, Sec. 8846.)

Sec. 9764. May Enact Needful Ordinances, Protect Persons and Property—Fines and Imprisonment.—All cities in this state which now have or may hereafter have 150,000 and less than 300,000 inhabitants, may enact all needful ordinances for preserving order, securing persons or property from violence, danger and destruction, protecting public and private property and for promoting the general interests and (in serving) (insuring) the good government of the city, and for the protection, regulation and orderly government of parks, public grounds and other public property of the city, both within and beyond the corporate limits of such city; and to prescribe and impose, enforce and collect fines, forfeitures and penalties for the breach of any provisions of such ordinances, and to punish the violation of any such ordinances by fine or imprisonment, or by both fine and imprisonment; but no fine shall exceed five hundred dollars, nor imprisonment exceed twelve months for any such offense. (Laws of 1901, p. 79.)

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Sec. 9568. Cities Empowered to Regulate Charges for Gas, Telephone, Etc.—All persons, firms and corporations owning or operating a telephone or telegraph line, system or exchange, or a street railway line or system, or a tunnel, subway, conduit or viaduct, or engaged in furnishing gas, steam or electricity for lighting, heating or power, or engaged in furnishing water, heat and refrigeration, under franchises granted by this state, or any of the cities thereof, or otherwise operating in such cities, and all persons, firms and corporations owning or operating any other public utilities under franchises granted by this state, or any of the cities thereof, or otherwise operating in such cities, are hereby required to charge no more for the services of such utilities than such rates as shall be fixed, from time to time, by ordinance, by the cities in this state in which such utilities are operated; and all cities in this state, whether organized under the provisions of Section 16 of Article IX of the Constitution, or otherwise, are hereby granted power and authority to fix, by ordinance, the rates of charge for the services of such utilities within their corporate limits, and to provide and enforce fines and penalties for the violation thereof, and to change such rates, by ordinance, from time to time, as often as may be deemed necessary: Provided, however, that such rates must be reasonable, and shall not be changed oftener than once every two years. (Laws of 1907, pp. 119 and 120.)

Sec. 9569. Aggrieved Party May Appeal.—Any such person, firm or corporation owning or operating any of the utilities mentioned in Section 9568 and claiming to be aggrieved by the rates fixed by such ordinance shall have the remedy herein provided, to have the validity of such ordinance and the reasonableness of such rates determined by the circuit court of the county in which such city may be situate. The party so complaining shall, as plaintiff, file in the Circuit Court within twenty days after the passage of such ordinance, a petition against such city, as defendant, setting forth the objections to such ordinance, whereupon summons shall issue and be served upon such city, and pleadings shall be filed and proceedings had as in other cases. The plaintiff or defendant shall have the right to appeal to the proper appellate court of the state as in other cases. Said cause shall be speedily heard and determined, and shall have precedence in time in the circuit and appellate courts over other civil actions. Nothing contained in this section shall be construed to mean that

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any power or jurisdiction is conferred upon said courts to fix such rates or regulate the charges of any such public utilities. (Laws of 1907, p. 120.)

Sec. 9570. City May Appoint Commission—Duties.—Any such city or town may, by ordinance, provide for and establish a committee or commission to make investigation into all facts and matters touching the establishing of such just and reasonable rate or rates of charge, and after such investigation said commission shall report its findings and recommendations to the city council. And all such cities and towns shall have power and authority, by ordinance, to require and enforce the production of books and papers, and compel the attendance of witnesses before the city council, or any duly constituted committee or commission thereof, for the purpose of ascertaining what is a just and reasonable rate or rates. (Laws of 1907, p. 120.)

CHARTER
OF
KANSAS CITY

ANNOTATED

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CHARTER

ARTICLE I.

CORPORATE POWERS—BOUNDARIES AND WARDS.

Section.

1. Corporate Name — Corporate Seal—Authority to Purchase, Hold and Dispose of Property—To Receive Bequests, Etc.—Powers of Eminent Domain.
2. Corporate Limits and Boundaries.
3. Number of Wards Until Changed by Ordinance.
4. Extension of Limits—Including Other Incorporated City.
5. New Territory—New Wards.
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7. Proceedings on Extension of Limits, or Changes in Wards.
8. Redistricting or Changing Wards, Not to Prevent any Elector From Voting or Being Eligible to Office.
9. Extension of Territory, or Changing of Wards, Limited as to Time.
10. New Wards—Territory and Inhabitants of.
11. New Wards—Alderman.
12. Changing of Wards, or Limits, Not to Limit Term of Office of Alderman.

Section 1. Corporate Name.—The municipal corporation known as “Kansas City,” comprising the inhabitants of all that district of country embraced, within the limits prescribed in the next succeeding section hereof, and any extension of said limits hereafter made, shall be and continue a body politic and corporate by the name and style of Kansas City, and by that name shall have perpetual succession, may sue and be sued, implead and be impleaded, defend and be defended in any courts of law and equity and in all actions whatsoever;

Corporate Seal.—Authority to Purchase, Hold and Dispose of Property—To Receive Bequests, Etc.—Powers of Eminent Domain.—May make and use a corporate seal and alter the same at pleasure; may acquire by gift, devise, bequest, purchase, lease, condemnation proceedings, or otherwise, and hold and use lands or other property, either within or outside of the corporate limits of the city, for water works to supply the city and its inhabitants, or any

person, firm or corporation, with water; for gas works and other works and plants for the supplying of the city and its inhabitants, or any person, firm or corporation, with light, heat and power, refrigeration and cold storage, or any of them; for public parks, cemeteries, crematories, penal and charitable institutions, or any of them; for hospitals, quarantine stations, markets, wharves, dikes, revetments, engine houses, fire stations, depots, terminals, tracks, rights of way for sewers, sewage reduction plants and devices, conduits, pipe lines, pole lines, telegraph or telephone lines, viaducts, bridges, tunnels and subways, or any other purpose within the class of public utilities, or for the exercise of the powers herein granted or provided for, and that may hereafter be granted or provided for, or for any other public purpose;

May also acquire, in any manner aforesaid, and hold and use lands or other property, whether specifically enumerated herein or not, within or outside of the State of Missouri, when deemed by the Common Council necessary, advantageous or expedient for any of the uses aforesaid, or for any municipal purpose, when not prohibited by law;

May also acquire, in any manner aforesaid, take, hold, use and improve, any property, real, personal or mixed, either within, or outside of, the corporate limits of the City, for art galleries, museums, or any educational, benevolent, charitable, or other public purpose, whatsoever, and may do all acts necessary to carry out the purposes of any such bequest, devise or gift, and purposes for which said property shall have been acquired, or be held;

May establish and maintain museums, art galleries, public libraries, reading rooms and penal and charitable institutions;

May erect, construct and maintain public buildings, public works and crematories, and may lay out, establish and maintain public parks and cemeteries;

May construct and maintain sewers, drains, and all works necessary for the disposition of sewage and garbage;

May lay out, open, extend, widen, improve, maintain, or vacate streets and alleys, sidewalks and crossings and all public highways and regulate the use of same;

May sell, lease or otherwise dispose of any property, real, personal or mixed, including any contract rights, of the city, subject to the restrictions imposed by this charter, or the Constitution of the State;

May manage, control, operate, and improve any property it may acquire, or hold, in any manner aforesaid, and may sell, lease, or otherwise dispose of the products, use or service of any public utilities now or hereafter under its control;

May exercise the powers of eminent domain and of taxation; also the power of enforcing payment for public improvements by special assessments, or otherwise; and may, by amendment of this charter, extend its limits as defined herein, so as to include new and additional territory;

Complete Powers For Enforcing Government of City.—May protect the property of the city and the lives and property of its inhabitants from floods and inundations and the danger thereof; and,

May exercise all municipal, incidental and business powers necessary or which may be deemed expedient for the complete and efficient management and control of the municipal property and administration of the municipal government and necessary to maintain the public peace, protect property and promote the public welfare, and preserve the health of the inhabitants of the city, whether such powers be expressly enumerated herein or not; and may have and exercise within the city limits and over all property owned by the city, all governmental and police powers, subject to the limitations prescribed by the Constitution and laws of this State and the United States.

Name, early incorporation, etc., Status under constitution, relation to state, relation to General Assembly, &c., see introductory note.

General Powers.—City possesses and can exercise only powers granted in express words or those necessarily incident to or implied in the powers expressly granted or those which are essential to the declared objects and purposes of the corporation. (*St. Louis vs. Telephone Co.*, 96 Mo. 623; *City ex rel. vs. Eddy*, 123 Mo. 546; *State vs. Butler*, 178 Mo. 272 l. c. 313; *St. Louis vs. Kalme*, 180 Mo. 309. l. c. 319; *State ex rel. vs. Wilder*, 200 Mo. 97 l. c. 105.)

Where there are both express and general charter provisions the special must be taken as intended to constitute an exception to the general provision. (*Ruschenberg vs. Ry.*, 161 Mo. 70.)

Power under general clause does not enlarge or annul power conferred by special provisions in relation to their various subject matters. (*St. Louis vs. Kalme*, 180 Mo. l. c. 318. *Jaicks vs. Merrill*, 201 Mo. 91 l. c. 105.)

Charters are construed strictly against the exercise of power. (*State vs. Butler*, 178 Mo. 272 l. c. 373.)

The construction must not be so strict or technical as to defeat the evident objects or purposes of the corporation. (*State ex rel. vs. Allen* 183 Mo. 283, l. c. 291; *St. Louis vs. Herthel*, 88 Mo. 128.)

City cannot by definition enlarge its powers beyond the grant of the charter. (*City of Brookfield vs. Kitchen*, 163 Mo. 546, l. c. 550.)

Acts must not only be authorized by charter but must be done by such officers or agents and in such manner as charter directs. (*City ex rel.*

vs Eddy, 123 Mo. 546, 1. c. 558 and cases there cited; City of Sedalia ex rel. vs Donohue, 190 Mo. 407; Construction Co. vs Loevy, 179 Mo. 1. c. 466.)

Discretion conferred upon one class of officers cannot be transferred to another. (Sheehan vs Gleeson, 46 Mo. 100.)

It is unnecessary that the president of the board of public works personally compute, levy or assess the cost of public work. It is sufficient that he sign his name to the tax bill. Signing his name became the consummate act of computing, assessing and levying. (Construction Co. vs Loevy, 179 Mo. 455 1. c. 466; Jaicks vs Merrill, 201 Mo. 91.)

When properly authorized, clerk may sign name of president of Board of Public Works to tax bills. (Jaicks vs Merrill, 201 Mo. 91; Dickey vs Porter, 203 Mo. 1.)

Plans and specifications for public work cannot be prepared by person not employed by city and accepted and filed by city engineer. (Paving Co. vs O'Brien, 128 Mo. App. 267.)

See Art. III. Sec. 1.

Power of City to Take and Hold Property.—We have no statute of mortmain. The power of city to hold real estate can be questioned only by the state. (Chambers vs St. Louis, 29 Mo. 543; Hafner vs St. Louis, 161 Mo. 34.)

The city has the power that is given to corporations by the general law to take, hold and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter, whether the property be situated within or without the city limits. It may take property by devise and may hold it in trust for charitable purposes. The power to hold property for purposes designated in the charter does not exclude the power to hold property for purposes not designated in the charter, unless expressly forbidden by the charter. (Christy's Administrator vs St. Louis, 20 Mo. 143; Chambers vs St. Louis, 29 Mo. 543; Hafner vs St. Louis, 161 Mo. 34; Haeussler vs St. Louis, 205 Mo. 656; St. Louis vs Crowe, 171 Mo. 272.)

Power to deal with property that has been bought by city. (State ex rel. vs Schweickardt, 109 Mo. 1. c. 508, 509.)

The city may rent building for hospital purposes. (Aull vs Lexington, 18 Mo. 401.)

An owner of land may, without deed or writing, dedicate it to public uses. No particular form or ceremony is necessary. Assent of owner and use for purposes intended by appropriation all that is necessary. (Rector vs Hartt, 8 Mo. 448.)

Dedication to public use may be shown by plat. (City of Hannibal vs Draper, 15 Mo. 635.)

No ordinance of formal acceptance of dedication is necessary. (Rose vs City of St. Charles, 49 Mo. 509.)

Legal fee remains in original proprietors but must be held by them for donated use as long as that use continues. Upon cessation of use the title reverts. (Cummings vs St. Louis, 90 Mo. 259; Campbell vs. Kansas City, 102 Mo. 326; Hand vs St. Louis, 158 Mo. 204 and cases there cited.)

When dedication by plat, deed or other writing shows intention to convey unlimited fee for particular purposes, title does not revert on cessation or diversion of use but equity may compel specific execution of trust. (Hand vs St. Louis, 158 Mo. 204; Goode vs St. Louis, 113 Mo. 257.)

Land deeded to city on condition reverts to grantor on failure to comply with such condition. (Clarke vs Brookfield, 81 Mo. 503; Baker vs St. Louis, 75 Mo. 671.)

As to whether provision in grant is a condition or a covenant and whether an action to declare a forfeiture is necessary, see St. Louis vs Wiggins Ferry Co., 88 Mo. 615; Studdard vs Wells, 120 Mo. 25; Railway Co. vs Frowein, 163 Mo. 1.

Husband cannot dedicate wife's land to public use unless she joins in conveyance. (City of Marshall vs Anderson, 78 Mo. 85.)

Private property condemned or dedicated for one public use cannot be appropriated to another and different use. Use for street purposes of property donated for park may be enjoined by adjacent property owners. (Price vs Thompson, 48 Mo. 361.)

Property condemned for wharf purposes cannot be used for warehouse. (Sugar Refining Co. vs Elevator Co., 82 Mo. 121, cases there cited on page

127 s. c. 101 Mo. 192; Board of Regents vs Painter, 102 Mo. 464.)

See Art III, Sec. 1, cl II, cl 14.

Power of City to Make Contract.—City has power to enter into contract as incident to and in carrying out its other powers. (Howsmon vs Trenton Water Co., 119 Mo. 304, l. c. 313.)

In making contracts city acts for benefit of citizens collectively and for all of them in every act, privity is not introduced by reason of taxpaying or discharge of civil duty by any individual citizen. Benefit to individual citizen is incidental to contract not primary object. In absence of express power in city to make contract for indemnity of individual citizen and express provision of contract, individual cannot maintain action on contract either in his own name or the name of city to his use or as his trustee. Hence individual cannot sue on contract to furnish water to city where loss by fire is occasioned by failure to comply with contract. (Howsman vs Trenton Water Co., 119 Mo. 304; Metz vs Waterworks & Light Co., 202 Mo. 324.)

Nor for damages for failure of contractor to perform contract for special improvements where by reason of failure work was done by another contractor at greater price and assessment of individual was thereby increased. (St. Louis vs Wright Contracting Co., 202 Mo. 451.)

Nor on bond under provision of Art. 8, Sec. 19, Charter 1908, for personal injury occasioned by negligence of contractor. (Kansas City ex rel. vs O'Connell, 99 Mo. 357.) See note Sec. 19, Art. 8.

Valid provision of ordinance in relation to employment of city employees enters into contract of employment. (State ex rel. vs Kent, 98 Mo. App. 281, l. c. 286, s. c. 176 Mo. 44; St. Charles vs Hackman, 133 Mo. 634.)

License issued by city is not a contract with city. (St. Charles vs Hackman, 133 Mo. 634.)

But city cannot make any contract unless it be within the scope of its powers or be expressly authorized by law, nor unless such contract be made upon a consideration wholly to be performed subsequent to the making of the contract and such contract including the consideration, shall be in writing and dated when made and be sub-

scribed by the parties or their agents authorized by law. (R. S. 1899, Sec. 6759; R. S. 1909, Sec. 2778.)

Power to make particular contract may be implied because necessary and incidental to execution of powers granted but such power will not be implied unless cognate to purposes for which corporation was created. (Blades vs Hawkins, 133 Mo. App. 328.)

City cannot create nor authorize agent to make contract otherwise than by ordinance. (Unionville vs Martin, 95 Mo. App. 28; O'Dell vs Scranton, 126 Mo. App. 19); and cannot authorize agent to make other than written contract. (Savage vs City of Springfield, 83 Mo. App. 323.)

Contract for repairs to engine house made by inspector who had power to contract is binding upon city though not made in name of city. (Robinson vs St. Louis, 28 Mo. 488.)

Compensation must be fixed in amount or by rate by written contract, (Woolfolk vs. Randolph County, 83 Mo. 501.)

Ordinance on part of the city and written acceptance thereof on part of other contracting party is a contract in writing under statute. (California vs Telephone Co., 112 Mo. App. 722, l. c. 727. See also Blades vs Hawkins, 133 Mo. App. 328.)

Where approved ordinance is shown and acceptance is assumed in trial by both parties and evidence neither shows written acceptance nor lack of it, question too late in appellate court. (Lancaster vs Briggs, 118 Mo. App. 570.)

Contract not in writing or not by authorized agent is void. (Perkins vs School District, 99 Mo. App. 483 and cases there cited.)

From void contract no cause of action can arise either of quantum meruit or sounding in damages. (Keating vs City of Kansas, 84 Mo. 415; Crutchfield vs City of Warrensburg, 30 Mo. App. 456; Phillips vs Butler Co., 187 Mo. 698.)

Court cannot enforce mere moral precepts in contravention of positive statute. (Crutchfield vs City of Warrensburg, 30 Mo. App. 456.)

Commissioners appointed by state to perform services for city cannot recover compensation from city. (Garnier vs St. Louis, 37 Mo. 554.)

Contract for; legal services. *Phillips vs Butler Co.*, 187 Mo. 698; *Crutchfield vs Warrensburg*, 30 Mo. App. 456; Medical services and drugs. *Miller vs Douglass Co.*, 204 Mo. 194; Purchase of horse for fire department. *Savage vs City of Springfield*, 83 Mo. App. 323; Services in compromising bonded indebtedness. *Woolfolk vs Randolph Co.*, 83 Mo. 501; purchase of real estate. *Vaughn vs Village of Greencastle*, 104 Mo. App. 206.

Manner and method of entering into contract see Art. III, Sec. 1, Cl. 2.

Ratification of Contract.—City can contract only in manner prescribed by law. City may ratify contract within its corporate powers but not made in manner prescribed by law when ratification complies with all requirements of law for making contract. In other words, city may make a new valid contract in place of invalid executory contract. But city cannot ratify void executed contract either *ultra vires* or *infra vires*. (*Kolkmeier vs City of Jefferson*, 75 Mo. App. 678; *State ex rel. vs Milling Co.*, 156 Mo. 620, 1. c. 634; *City of Unionville vs Martin*, 95 Mo. App. 28, 1. c. 37, approving *Tiedeman on Corporations*, Sec. 170; *Phillips vs Butler Co.*, 187 Mo. 698, 1. c. 713; *Clay vs City of Mexico*, 92 Mo. App. 611; *Heidelberg vs St. Francois County*, 100 Mo. 69; *Snyder vs Ry. Co.*, 112 Mo. 527; *Ruggles vs Collier*, 43 Mo. 353; *Bayha vs Taylor*, 36 Mo. App. 427; *Dickey vs Holmes*, 109 Mo. App. 721; *Barton vs Kansas City*, 110 Mo. App. 31; *Mulligan vs Lexington*, 126 Mo. App. 715; *McQuiddy vs Brannock*, 70 Mo. App. 535; But see *O'Dell vs Scranton*, 126 Mo. App. 19.)

Cases holding that subsequent affirmation is equivalent to previous authorization. (*Imler vs Springfield*, 30 Mo. App. 669; *Aurora Water Co. vs Aurora*, 129 Mo. 540.)

A city, its officers and agents have no powers except such as are given by law. Person dealing with them is bound to know what authority law confers. Hence, even though city receive and accept benefits to be derived from performance of invalid contract it will not thereby ratify contract. (*Wolcott vs Lawrence Co.*, 26 Mo. 272; *City of Unionville vs Martin*, 95 Mo. App. 28; *Cheaney vs Town of Brookfield*, 60 Mo. 53; *Mister vs City*

of Kansas, 18 Mo. App. 217, 1. c. 227-228 and cases there cited.)

But city may waive defects in article furnished and waive objections to compliance with contract. (*Waterworks Co. vs City of Joplin*, 177 Mo. 496 and cases cited; *Whitworth vs Webb City*, 204 Mo. 579.)

"The law implies no undertaking upon the part of a city by reason of a contract made by her officers in violation of law." (*Mister vs City of Kansas*, 18 Mo. App. 217, 1. c. 228 and cases there cited.)

Even though public work be done under direction of city officials if done without ordinance providing for it no action of city council can ratify the invalid contract. (*Clay vs City of Mexico*, 92 Mo. App. 611, 1. c. 619.)

Use of articles purchased without authority is not ratification of purchase. (*Johnson vs School Dist.* 67 Mo. 319.)

Where horse is delivered to city under a void contract, no act of ratification made after death of the horse will bind city to pay for it. (*Savage vs City of Springfield*, 83 Mo. App. 323.)

Payment of portion of price agreed upon in an invalid contract is not ratification. (*Maupin vs Franklin County*, 67 Mo. 327.)

Estoppel. "Where a municipal corporation enters into a contract, which it has the power to make, the doctrine of estoppel applies to it with the same force as to individuals. If act undertaken was in and of itself *ultra vires* no act of city can estop it to allege its want of power to do what was undertaken." (*Union Depot Co. vs St. Louis*, 76 Mo. 393; *Stealey vs Kansas City*, 179 Mo. 400; *Wheeler vs Poplar Bluff*, 149 Mo. 36; *State ex rel. vs Murphy*, 134 Mo. 548, 1. c. 567.)

Where city has authority to contract but authority is not exercised in the manner prescribed by law, the city is not estopped to deny the validity of the contract even though it receive the benefits to be derived from its performance. Although city is not estopped other party to contract may be estopped to deny its validity. Other party must at least account for benefits received under invalid contract. (*City of Unionville vs Martin*, 95 Mo. App. 28.)

City cannot annul contract on account of neglect of its own agents. Nor on account of its own default. (*Murray vs Kansas City*, 47 Mo. App. 105.)

Not bound to let contract to lowest bidder. (*Kemp vs School District*, 84 Mo. App. 680.)

Power to establish and maintain museums, art galleries, public libraries and reading rooms. See Art. III, Sec. 1, Cl. 14, Art. XIII, Sec. 38.

Power to construct public buildings, public works, &c., see Art. III, Sec. 1, Cl. 14, Art. VIII.

Power to establish and maintain public parks and cemeteries, see Art. XIII.

Power to construct sewers, see Art. III, Sec. 1; Cl. 13, Art. VI, Sec. 1; Art. VI, Sec. 25; Art. VIII, Sec. 5, 6, 7, 8, 9, 10, 19; Art. X, Sec. 7 and 8; Art. XVIII, Sec. 31.

Power over streets and highways, see Art. III, Sec. 1; Cl. 11.

Right of eminent domain, see Art. VI and VII.

Power of taxation, see Art. V.

Enforcing payment for public improvements, see Art. VIII, VI, VII.

Power to protect city from floods and inundations, see Art. XII.

Liability of City.—City is not liable for damages resulting from acts done or omitted by it or its officers in the exercise of its legislative, public or governmental capacity but is liable for damages resulting from negligence in its ministerial private or proprietary capacity. (*Whitfield vs Town of Carrollton*, 50 Mo. App. 98; *Funke vs St. Louis*, 122 Mo. 132; *Donohoe vs Kansas City*, 136 Mo. 657; *Johnson vs Dist. of Columbia*, 118 U. S. 21; *Kansas City vs Leman*, 57 Fed. (C. C. A.) 905; *State ex rel. vs Gates*, 190 Mo. 540.)

Test of the matter is this: that city could not have been compelled to enter on the work for whose performance it contracted. (*Hannon vs County of St. Louis*, 62 Mo. 313.)

Public and Governmental Functions.—Maintenance of a police force. (*Carlington vs St. Louis*, 89 Mo. 208; *State ex rel. vs St. Louis*, 174 Mo. 125.) Establishing regulations for suppression of vice. (*State ex rel. vs Gates*, 190 Mo. 558; *Donohoe vs Kansas City*, 136 Mo. 657.) Maintaining city workhouse. (*Ulrich vs St. Louis*, 112 Mo. 138.) Maintaining fire department. (*Heller vs Sedalia*, 53 Mo. 159; *McKen-*

na vs St. Louis, 6 Mo. App. 320, *Howmon vs Trenton Water Co.*, 119 Mo. 304.) Caring for the public health. (*Murtaugh vs St. Louis*, 44 Mo. 479; *Ferrenbach vs Turner*, 86 Mo. 416; *Young vs Railroad*, 126 Mo. App. 1.) Caring for poor and providing for education, (*Bullmaster vs St. Joseph*, 70 Mo. App. 60; *Barree vs Cape Girardeau*, 197 Mo. 382) are public or governmental functions and the city is not liable for a failure to perform them nor for negligence of its servants in performing them nor for defects in appliances used in performing them.

The abatement, prevention and removal of nuisances on private property not caused by the city or its agents is a public or governmental function and city is not liable for failure to abate, prevent or remove them. (*Kiley vs City of Kansas*, 87 Mo. 103; *Armstrong vs City of Brunswick*, 79 Mo. 319.)

City liable for unnecessary destruction of property in abatement of nuisances. (*Waggoner vs South Gorin*, 88 Mo. App. 25; *Allison vs City of Richmond*, 51 Mo. App. 133.)

But city is liable for nuisances created by it. (*Edmondson vs City of Moberly*, 98 Mo. 523; *Scott vs City of Nevada*, 56 Mo. App. 189; *Martinowsky vs City of Hannibal*, 35 Mo. App. 70.)

Liable for nuisances on its property if plaintiff suffer peculiar damages differing not only in degree but in kind from that suffered by public generally. (*Van De Vere vs Kansas City*, 107 Mo. 83; *Whitfield vs Town of Carrollton*, 50 Mo. App. 98; *Fairchild vs St. Louis*, 97 Mo. 85; *Rude vs St. Louis*, 93 Mo. 408.)

City liable for pollution of streams by sewers. (*Smith vs City of Sedalia*, 182 Mo. 1, s. c. 152 Mo. 283.)

Ministerial Functions.—Making and improving streets. Declaring by ordinance that land embraced within certain lines is public street; obtaining title to or easement for that purpose; passing ordinance providing for improvement of street are governmental acts; undertaking work of reconstructing street as required by ordinance is ministerial act; city not bound to improve whole of street. (*Ely vs St. Louis*, 181 Mo. 723; *Ruppenthal vs St. Louis*, 190 Mo. 213; *Dinsmore vs St.*

Louis, 192 Mo. 255; See distinction Smith vs Hayti, 130 Mo. App. 321.)

For duties and liability of city in regard to keeping streets and sidewalks in reasonably safe condition for travel see full discussion note to Art. III, Sec. 1; Cl. 11.

Liability of city growing out of change of grade of street and alleys see Art. III, Sec 1; Cl. 11; See also Art. VII.

Construction of Sewers and Keeping Them in Repair.—City is liable for injuries occasioned by negligence in constructing sewer even though acting in violation of charter; laborers and superintendent of streets not fellow servants. (Donohoe vs Kansas City, 136 Mo. 657.)

Leaving man-hole above street level. (Wheat vs St. Louis, 179 Mo. 572.)

Keeping sewers in repair. (Gulath vs St. Louis, 179 Mo. 38.)

Liable to person using street for unguarded excavation in street in constructing sewer. (Welsh vs St. Louis, 73 Mo. 71.)

Liable to property owners for negligence of contractor in constructing sewer. (Fink vs St. Louis, 71 Mo. 52; Thurston vs St. Joseph, 51 Mo. 510.) Liability for explosion of gas in sewer. (Fuchs vs St. Louis, 167 Mo. 620, over-ruling s. c. 133 Mo. 168.)

Liable for nuisances unnecessarily created by construction of sewer. (Edmondson vs City of Moberly, 98 Mo. 523; Smith vs City of Sedalia, 182 Mo. 1, s. c. 152 Mo. 283; Frick vs Kansas City, 117 Mo. App. 488; Scott vs City of Nevada, 56 Mo. App. 189; Martinowsky vs City of Hannibal, 35 Mo. App. 70.)

Negligent construction of sewer throwing water on lot. (Thurston vs St. Joseph, 51 Mo. 510.)

See surface water post.

City not liable for damages by a rock thrown from sewer by blast made by contractor. (Blumb vs City of Kansas, 84 Mo. 112.)

Rule as to independent contractor see McGrath vs St. Louis, 215 Mo. 191.

Surface Water.—City liable for damages by, when: (Cannon vs St. Joseph, 67 Mo. App. 367; Arn vs Kansas City, 14 Fed. Rep. 236; Payne vs Railroad, 112 Mo. 6; Stewart vs Clinton 79 Mo.

603; Woods vs Kansas City, 58 Mo. App. 272; Carson vs Springfield, 53 Mo. App. 289; McNery vs St. Joseph, 45 Mo. App. 296; Rychlicki vs St. Louis, 98 Mo. 497; Foster vs St. Louis, 71 Mo. 157 and cases cited on p. 158; Frick vs Kansas City, 117 Mo. App. 488; Gulath vs St. Louis, 179 Mo. 38.)

Damages for defective water main, etc., causing flooding of premises; (Rice vs St. Louis, 165 Mo. 636.)

Rule as to running streams. (Imler vs Springfield, 55 Mo. 119; Rose vs St. Charles, 49 Mo. 509; Young vs The City of Kansas, 27 Mo. App. 101; Barns vs Hannibal, 71 Mo. 449; Martin vs St. Joseph (K. C. Ct. of App. Mar. 1, 1909.) 117 S. W. 94.)

Holding Property for corporate purposes. (Whitfield vs Town of Carrollton, 50 Mo. App. 98; Carrington vs St. Louis, 89 Mo. 208; Van De Vere vs Kansas City, 107 Mo. 83.)

Providing water for city. (Illinois Trust & Savings Bank vs City, 76 Fed. 282 approving State ex rel. vs Gates, 190 Mo. 540, l. c. 558; Rice vs St. Louis, 165 Mo. 636.)

Operation of electric light plant. (Bullmaster vs City of St. Joseph, 70 Mo. App. 60.)

City is not liable for injury occasioned in enacting or failing to enact ordinances. (Keating vs City of Kansas, 84 Mo. 415.)

The city is not liable for failure to enforce its own ordinances; (Kiley vs Kansas City, 87 Mo. 103; Armstrong vs Brunswick 79 Mo. 319; Moran vs Pullman Car Co., 134 Mo. 641, 651; Harman vs St. Louis, 137 Mo. 494, 499; Loth vs Columbia Theatre Co., 197 Mo. 328, 357 and cases cited on p. 358; Mehan vs St. Louis, 217 Mo. 35.)

Nor for cases of defective legislation; (Carroll vs St. Louis, 4 Mo. App. 191; Saxton vs St. Joseph, 60 Mo. 153.)

Nor where its officers act under a void ordinance believed to be valid; Worley vs Columbia, 88 Mo. 106.)

Trespass.—City held liable for trespass of its officers in taking possession of property for pest house. (Dookey vs City of Kansas, 82 Mo. 444; Barton vs City of Odessa, 109 Mo. App. 76.)

Not liable for wrongful arrest by its officers. (Worley vs Town of Colum-

bia, 88 Mo. 106.) When liable for assault by city officer or employe. (Barree vs Cape Girardeau, 197 Mo. 382, s. c. 132 Mo. App. 183.) Not liable for constructing embankment on private property. (Quinn vs Schneider,

118 Mo. App. 39.)

Nor for excavation by contractor which undermines building on alley. (McGrath vs St. Louis, 215 Mo. 191; Johnson vs St. Louis, 172 Fed., 31 C. C. A.)

Sec. 2. Corporate Limits and Boundaries.—The corporate limits of Kansas City shall include all that district of country in the County of Jackson, State of Missouri, described and bounded, as follows:

Commencing at a point where the western boundary line of the State of Missouri intersects the center line of the main channel of the Missouri River; thence south along the western boundary line of the State of Missouri to a point one hundred and eighty (180) feet south of the south line of the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of section eighteen (18), township forty-eight (48) north, range thirty-three (33) west; thence east one hundred and eighty (180) feet south of and parallel with the south lines of the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of sections eighteen (18) and seventeen (17), township forty-eight (48) north, range thirty-three (33) west to a point one hundred and ninety (190) feet west of the east line of said section seventeen (17); thence south one hundred and ninety (190) feet west of and parallel with the east line of said section seventeen (17) to a point two hundred and five (205) feet south of the east and west center line of said section seventeen (17); thence east two hundred and five (205) feet south of and parallel with the east and west center lines of sections seventeen (17), sixteen (16) and fifteen (15), township forty-eight (48) north range thirty-three (33) west, to a point one hundred and ninety (190) feet east of the west line of said section fifteen (15); thence north one hundred and ninety (190) feet east of and parallel with the west line of said section fifteen (15) to a point one hundred and eighty (180) feet south of the south line of the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of said section fifteen (15); thence east one hundred and eighty (180) feet south of and parallel with the south line of the north half ($\frac{1}{2}$) of the north half ($\frac{1}{2}$) of sections fifteen (15), fourteen (14) and thirteen (13), township forty-eight (48) north, range thirty-three (33) west, to a point one hundred and eighty (180) feet east of the north and south center line of section thirteen (13), township forty-eight (48) north, range thirty-three (33) west; thence north one hundred and eighty (180) feet east of and parallel with the north and south center lines of sections thirteen (13), twelve (12) and one (1), township

forty-eight (48) north, range thirty-three (33) west, to a point one hundred and eighty (180) feet north of the south line of the north half ($\frac{1}{2}$) of the south half ($\frac{1}{2}$) of said section one (1); thence west one hundred and eighty (180) feet north of and parallel with the south line of the north half ($\frac{1}{2}$) of the south half ($\frac{1}{2}$) of said section one (1), to the east line of lot "A," Park Plaza, as shown on the recorded plat thereof on file in the office of the Recorder of Deeds of Jackson County, Missouri; thence north along the east line of said lot "A" and said line produced, to a point one hundred and eighty (180) feet north of the east and west center line of said section one (1); thence west one hundred and eighty (180) feet north of and parallel with the east and west center line of section one (1), township forty-eight (48) north, range thirty-three (33) west, to a point one hundred and eighty (180) feet east of the west line of said section one (1); thence north one hundred and eighty (180) feet east of and parallel with the west line of said section one (1), to the north line of said section one (1); thence to a point on the north line of said section one (1) which is one hundred and eighty (180) feet east of the west line of section thirty-six (36), township forty-nine (49) north, range thirty-three (33) west; thence north one hundred and eighty (180) feet east of and parallel with the west lines of sections thirty-six (36) and twenty-five (25), township forty-nine (49) north, range thirty-three (33) west, to a point one hundred and eighty (180) feet south of the east and west center line of said section twenty-five (25); thence east one hundred and eighty (180) feet south of and parallel with the east and west center line of section twenty-five (25), township forty-nine (49) north, range thirty-three (33) west, and section thirty (30), township forty-nine (49) north, range thirty-two (32) west, to a point one hundred and eighty (180) feet east of the west line of said section thirty (30); thence north one hundred and eighty (180) feet east of and parallel with the west line of sections thirty (30), nineteen (19) and eighteen (18), township forty-nine (49) north, range thirty-two (32) west, to a point one hundred and eighty (180) feet south of the east and west center line of said section eighteen (18); thence east one hundred and eighty (180) feet south of and parallel with the east and west center line of said section eighteen (18) to a point one hundred and eighty (180) feet east of the north and south center line of said section eighteen (18); thence north one hundred and eighty (180) feet east of and parallel with the north and south center line of sections eighteen (18), seven (7) and six (6), township forty-nine (49) north, range thirty-two (32)

west, to a point one hundred and ninety (190) feet south of the north line of said section six (6); thence east one hundred and ninety (190) feet south of and parallel with the north line of said section six (6) to a point one hundred and eighty (180) feet east of the north and south center line of the east half ($\frac{1}{2}$) of section thirty-one (31), township fifty (50) north, range thirty-two (32) west, produced south; thence north one hundred and eighty (180) feet east of and parallel with the north and south center line of the east half ($\frac{1}{2}$) of section thirty-one (31), township fifty (50) north, range thirty-two (32) west and this line produced, to the center line of the main channel of the Missouri River; thence westwardly with the meanderings of the center line of the main channel of the Missouri River to the place of beginning.—(Amended April 6, 1909.)

Prior to its amendment, April 6, 1909, this section defined the boundaries of Kansas City exactly as they were described in the Charter of 1889, amended December 2, 1897, and as they are shown in the official volume of the Charter and revised ordinances, printed in 1898.

Courts will take judicial notice of extent and limits of territory included in city, (R. S. Mo. 1899, Sec. 6399; R. S. Mo. 1909, Sec. 9743; *Kansas City vs Vineyard*, 128 Mo. 75; *Kansas City vs Block*, 175 Mo. 433.)

For owning lands outside of city limits see introductory note, "Authority to purchase and hold property."

City cannot tax lands beyond city limits. (*Wells vs Weston*, 22 Mo. 384; *In re Apportionment of taxes*, 78 Mo. 596 1. c. 599; *St. Charles vs Nolle*, 51 Mo. 122.)

City ordinance or city contract designed for city at large operates throughout its boundaries whatever their change. (*Gaslight Company vs St. Louis*, 46 Mo. 121; *R. R. vs Houck*, 120 Mo. App. 634, 1. c. 646 et seq; *Blair vs Chicago*, 201 U. S. 1. c. 489.)

Jurisdiction over river. (*Sanders vs N. O. Anchor Line*, 97 Mo. 26; *Swearingen vs Steamboat*, 13 Mo. 519; *State vs Seagraves*, 111 Mo. App. 353; *Wedding vs Meyler*, 192 U. S. 573; *St. Louis vs Rutz*, 138 U. S. 226.) *Cooley vs Golden*, 52 Mo. App. 229; *State vs Metcalf*, 65 Mo. App. 681.)

Obstruction of river by buildings or construction work. (*State ex rel. vs Longfellow*, 169 Mo. 109; *Myers vs St. Louis*, 82 Mo. 367; s. c. 8 Mo. App. 266, s. c. 113 U. S. 566; *St. Louis vs Knapp Co.*, 104 U. S. 658 reversing s. c. 6 Fed. 221.)

Sec. 3. Number of Wards Until Changed By Ordinance.—Kansas City shall, until otherwise provided by ordinance, be divided into fourteen wards, the respective numbers and boundaries of which shall be and remain as defined by ordinances in force at the time this charter shall go into effect, until changed or modified by ordinance.

Sec. 4. Extension of Limits—Including Other Incorporated City.—Said city may, at any time or times, extend its limits. Any extension of the city limits shall be made by amendment of this charter, in the manner provided by this charter and the Con-

stitution and laws of this State. The proposal therefor shall be made by ordinance in the form of a proposed amendment of the charter, specifying with accuracy the new line or lines to which it is proposed to extend such limits. All courts of this State shall take judicial notice of the limits of said city when thus extended and of all the steps in the proceedings leading thereto; *Provided*, That should said city by such extension of its territorial limits include any portion of any incorporated city, town or village, such extension shall be made to include the whole territory of such incorporated city, town or village, and upon such extension being made, the corporate existence of such incorporated city, town or village so included in such extension shall *ipso facto*, cease, and all property and rights of every kind and nature belonging to and vested in such incorporated city, town or village, shall, by operation of law, at once pass to and vest in said Kansas City, and it shall be the duty of all officers and employes of such incorporated city, town or village, having custody or control thereof, to surrender and deliver the same to said Kansas City, and said Kansas City shall also, by operation of law, assume and become liable to pay all debts and liabilities of such incorporated city, town or village; *Provided, further*, That before said Kansas City shall extend its limits so as to include any incorporated city, town or village, four-sevenths of the qualified voters of the incorporated city, town or village, so desired to be included within the limits of said Kansas City, shall vote in favor of such proposition at an election held for that purpose to be determined in the following manner, to-wit: Whenever said Kansas City shall desire to include within its limits any incorporated city, town or village, the Mayor of said Kansas City shall inform the mayor, or other chief officer, of the incorporated city, town or village proposed to be so taken in, of the intention to include said city, town or village within the limits; and the Mayor thereof shall order a special election to determine the wishes of said city, town or village, giving twenty days' public notice of the time and places of holding such election, and the purposes for which it is to be held; said election to be governed by the general laws governing said city, town or village in respect to the holding of general elections, and if four-sevenths of the qualified voters voting at such election shall vote in favor of the proposed extension, the Mayor or other chief officer of such incorporated city, town or village shall certify the result to the Mayor of said Kansas City, and said city may proceed to extend its limits as provided in this charter, the Constitution and laws of the State.

Prior to adoption of constitution of 1875 the legislature alone could determine, alter, or abrogate limits of a city. (*Copeland vs St. Joseph*, 126 Mo. 417, l. c. 431; *St. Louis vs Russell*, 9 Mo. 507; *McCormick vs Railway Co.*, 20 Mo. App. 640 and cases there cited.)

Under the constitution of 1875 and by authority of Section 6399 Rev. Stat. 1899, Sec. 9743, R. S. 1909, Kansas City may extend its own limits and, upon the conditions stated in the statute, may include any other municipality within its limits, but in so doing, by operation of law, becomes liable for all debts and liabilities of such municipality. (*Kansas City vs Stegmiller*, 151 Mo. 189.)

Extension of limits is a change in city's charter and must be made in manner provided by law for amending charter. (*City of Westport vs Kansas City*, 103 Mo. 141; *Copeland vs St. Joseph*, 126 Mo. 417.)

Extension that exempts property from taxation or provides for unequal taxation is invalid. (*State ex rel. vs Wardell*, 153 Mo. 319; *Copeland vs St. Joseph*, 126 Mo. 417.)

Lands brought into city by extension of its boundaries are not subject to a tax levy already made. (*Westport ex rel. vs McGee*, 128 Mo. 152.)

Reasonableness of extension open to judicial inquiry. (*Copeland vs St. Joseph*, 126 Mo. 417; *Kelly vs Meeks*, 87 Mo. 396; *Plattsburg vs Riley*, 42 Mo. App. 18). But only in state not in federal courts. (*Forsythe vs Howell*, 166 U. S. 506.)

Obligation of contract can not be impaired by alteration of boundaries. (*Graham vs Folsom*, 200 U. S. 248.)

Collateral attack on extension for unreasonableness. (*State ex rel. vs Birch*, 186 Mo. 205.)

Extension of limits does not extend lines of school district. (*State ex inf. vs Henderson*, 145 Mo. 329.)

School district may extend its own boundary lines. (R. S. 1899, Chapter 154, Article 5, R. S. 1909, Chap. 106, Art. V.)

Residents of annexed territory may vote and are eligible to office at next general city election. (R. S. 1899, Sec. 6400, R. S. 1909, Sec. 9744.)

Sec. 5. New Territory—New Wards.—Whenever, by extension of its territorial limits, as aforesaid, new territory is annexed to the city, the Common Council shall, by ordinance, and subject to the limitations of the next succeeding section, organize the same into a new ward or wards, or attach the same to some existing ward or wards, long enough before the next ensuing general city election to enable electors in such annexed territory to register, and all other proper steps be taken according to law, so that the electors of such annexed territory may have full opportunity to register and vote at such election. Actual residents of any territory at the time of the annexation thereof as aforesaid, shall, if otherwise qualified, be qualified electors of the city and be eligible to any office therein at the next general city election following such annexation.

(R. S. 1899, Sec. 6400; R. S. 1909, Sec. 9744.)

Sec. 6. Council Shall Redistrict City Into Wards Once in Every Five Years—No More Than Sixteen Wards, Until, When.—Whenever the corporate limits of the city shall be so extended, and whenever and as often as the population of the city, or any ward or wards thereof, have been, or may be so increased or diminished as to render necessary, in the opinion of the Common Council, a redivision or redistricting of the corporation into wards, or a change

in the boundary of any ward or wards, the same may be done by ordinance, and the Common Council shall, at least once in every five years after the adoption of this charter, redistrict the city into wards, and establish ward limits, which shall as nearly as practicable equalize the population in each ward; *Provided, however,* That the territory within the city limits shall never, at any time, be so divided as to consist of more than sixteen wards, until the city shall have attained a population of more than four hundred thousand; and thereafter, and as often as fifty thousand inhabitants shall be added to said city, the number of said wards may be increased by not more than two to each fifty thousand of increased population.

(R. S. 1899, Secs. 6401, 6402, 6403, 6404, 6405, 6406, and 6407, R. S. 1909, Secs. 9745, 9746, 9747, 9748, 9749, 9750, 9751.)

Sec. 7. Proceedings on Extension of Limits, or Changes in Wards.—Upon the introduction of any ordinance either for extending the limits of the city, or for making any change or changes in the wards of the city, into either house of the Common Council, the Common Council shall, before the passage thereof, by resolution, require the City Clerk to publish a copy of the ordinance in at least one daily newspaper published in the city, to be designated in the resolution, for at least three weeks within the four weeks next after the passage of such resolution. After such publication proof thereof shall be made and filed with the City Clerk, and if the house into which said ordinance may have been introduced shall be satisfied that such publication has been made, it shall by a vote so find, and the clerk shall make a record of such finding in the book or record of the current proceedings of that house, which record shall be conclusive evidence of the truth of the facts so found. Should said ordinance be amended in either house after such publication, then the ordinance as amended shall be again published for the same time and proceeded with in all respects as in the case of the original ordinance. If such ordinance is passed by the Common Council at the first or second regular meeting after such last publication and finding, and not later, and duly approved by the Mayor, the proceeding to extend such limits shall be completed in the manner herein provided, unless such ordinance be repealed or altered. Before such proposed amendment to the charter shall be of any force and effect, it shall be submitted to and accepted by three-fifths of the qualified voters of Kansas City at a general or special election provided by ordinance for such purpose. The city shall have power to call and hold a special election for such purpose at such time and in such manner as may be provided by ordinance and the Constitution

and laws of the State. The votes cast at such election shall be canvassed, the result ascertained and declared in such manner as may be provided by ordinance and the laws of the State, and if the proposed amendment to the charter be accepted and approved, the same shall thereafter be in full force and effect.

(R. S. 1899, Sec. 6402; R. S. 1909, Sec. 9746.)

Sec. 8. Redistricting or Changing Wards, Not to Prevent Any Elector From Voting or Being Eligible to Office.—In case of a redistricting or division of the city into wards, creation of any new ward or wards, or change of boundary of any ward or wards, every qualified elector residing in any ward at any general city election next thereafter, duly registered, shall be a qualified voter of such ward, and nothing in this charter contained shall be so construed as to prevent any elector from voting or being eligible to any office by reason merely of such redistricting or division, or creation of any new ward or wards, or change in the boundary of any ward or wards.

(R. S. 1899, Sec. 6403; R. S. 1909, Sec. 9747.)

Sec. 9. Extension of Territory, or Changing of Wards, Limited as to Time.—Territory shall not be annexed to the city within four months next preceding any general city election, nor shall there by a redistricting of the city into wards, or change of boundary of any ward or wards, or creation of any new ward or wards, within two months next preceding any general city election.

(R. S. 1899, Sec. 6404; R. S. 1909, Sec. 9748.)

Sec. 10. New Wards—Territory and Inhabitants of.—All wards which may be established by ordinance as aforesaid shall be composed of adjacent and compact territory, and the several wards, at the time of redistricting, shall contain as nearly an equal number of inhabitants as may be practicable. The wards shall be numbered consecutively from one up to the highest number thus established.

(R. S. 1899, Sec. 6405; R. S. 1909, Sec. 9750.)

Sec. 11. New Wards—Aldermen.—Whenever any change in the number of wards, or alteration in the boundaries of any ward, shall be made, or new wards shall be established, there shall be no election or appointment of any member of either house of the Common Council on account thereof until the next general city election.

(R. S. 1899, Sec. 6406; R. S. 1909, Sec. 9751.)

Sec. 12. Changing of Wards, or Limits, Not to Limit Term of Office of Aldermen.—Nothing in this article contained shall be

construed to limit or abridge the term of office which any member of the Common Council of the city shall be elected to fill, and every member of the lower house shall be deemed and taken for the residue of the term for which he may have been elected a member for that ward in which his actual residence and place of abode may be at the time of any division of the city into wards, the creation of any new ward or wards, or changing the boundaries of any ward or wards.

(R. S. 1899, Sec. 6407; R. S. 1909, Sec. 9751.)

ARTICLE II.

THE COMMON COUNCIL.

Section.

1. Common Council—Two Houses—Qualification of Members.
2. Members of Upper House—Term of Office and How Elected—First Upper House—When New Wards Added.
3. Members of Lower House—Qualifications—Election—First Lower House.
4. Additional Qualifications of Members of Common Council—Forfeiture of Office.
5. Compensation of Members.
6. Presiding Officers—Sergeant at Arms and Assistants.
7. Each House, Judge of Election of Its Own Members—To Determine Rules of Proceedings—Expel Members—Quorum.
8. Journal of Proceedings—Recording Vote.
9. Public Improvements—Appropriating Money—Increasing

Section.

- or Diminishing Revenue—Vote Necessary.
10. Members of Common Council Not Appointed to Other City Office, or Employment.
11. Vacancies in Either House—How Filled.
12. Tie in Vote for Member—Determination of.
13. Meeting—Mayor May Convene—Petitions and Remonstrances.
14. Mayor May Call Special Session.
15. Common Council, Continuing Body—Ordinances Pending and Not Passed, Expire With End of Term.
16. Members of Have Access to Books, Papers and Records—Committees May Investigate Transactions of Officers—May Summon Witnesses—May be Represented by Counsel.

Section 1. Common Council—Two Houses—Qualification of Members.—There is hereby established in the city a Common Council which shall consist of two houses of legislation, one to be called the Upper, and the other the Lower House. The Upper House shall consist at all times of as many members as there are wards in the city, who shall be elected on a general ticket by the qualified voters of the city. The Lower House shall consist of one member from each ward of the city. The members of both Houses shall be citizens of the United States, and of the State of Missouri, and qualified voters of the city; shall have paid city and county taxes for two years next before the day of their election, and shall, before the day of election, have attained the age of twenty-five years, and shall, at same date, have resided for three years in the territory embraced within the city limits.

The constitution requires two houses of legislature at least one of which shall be elected by general ticket. (Constitution, Art. 9, Sec. 17.)

Qualification that member shall have paid taxes. (State ex rel. vs Macklin, 41 Mo. App. 335.)

Payment of taxes on day of election makes candidate eligible. (State vs Berkeley, 140 Mo. 184.)

What is evidence of payment and time of payment. (State ex rel. vs Williams, 99 Mo. 291, 1. c. 298.)

Qualification of residence. (State ex rel. vs Williams, 99 Mo. 291, 1. c. 296.)

What is residence and removal of residence. (State ex rel. vs Dayton, 77 Mo. 678; State ex rel vs Banta, 71 Mo. App. 32; Lankford vs Gebhart, 130 Mo. 621, 1. c. 632, 639; Shirk vs Shirk, 75 Mo. App. 573; McDowell vs Friedman Bros. Shoe Co., 135 Mo. App. 276.)

Quo warranto proper method to question right of councilmen to hold office. State ex rel. cases above cited. Sec. 4, this article.

For further qualifications see Section 4 of this article and note to that section.

Acts of de facto councilmen are valid. One is de facto alderman although there is no office de jure of alderman for ward from which he is elected. (Simpson vs McGonegal, 52 Mo. App. 540; Adams vs Lindell, 72 Mo. 198, s. c. 5 Mo. App. 197; Perkins vs Fielding, 119 Mo. 149; Hilgert vs Barber Asphalt Paving Co., 107 Mo. App. 385.)

Members of the council are trustees for the citizens and the public who have confided the authority to them. (Hitchcock vs St. Louis, 49 Mo. 484.)

Sec. 2. Members of Upper House—Term of Office and How Elected—First Upper House—When New Wards Added.—The members of the Upper House of the Common Council shall be elected for the term of four years. The members of the Upper House of the Common Council of said Kansas City in office at the time this charter goes into effect, shall become and constitute the first Upper House of the Common Council hereunder, and shall hold office until the expiration of the term for which they were respectively elected. At the general city election to be held in April, 1910, and at each general city election to be thereafter held, as in this charter provided, members of the Upper House shall be elected to succeed those whose term of office will expire with the fiscal year in which such election shall be held. Whenever the number of wards in the city is increased, additional members shall be elected to the Upper House at the first general city election thereafter equal in number to the additional number of wards. One-half of the additional number so elected, receiving the highest number of votes, shall hold their office for four years, and the other half for two years; *provided*, that if an odd number of wards be added at any one time, the additional members first elected thereafter shall be divided into two classes as nearly equal in number as may be possible, and the larger class which shall contain those receiving the highest number of votes, shall hold their office for four years and the other class for two years; except that when only one new ward is added at any one time, the additional member first elected thereafter shall hold his office for four

years. In case of a tie it shall be determined by lot in the presence of the upper house which member or members shall hold for two years and which for four years. The term "additional members" or "additional member" shall be construed to mean the number of new members made necessary hereunder whenever the number of wards in the city is increased, and shall refer to those members of the Upper House first elected thereafter, equal in number to the number of additional wards, who shall receive the lowest number of votes at said election.

Members elected by reason of extension of limits which is afterwards held invalid are de facto members. (Simpson vs McGonegal, 52 Mo. App. 540; Hilgert vs Barber Asphalt Paving Co., 107 Mo. App. 385.)

Sec. 3. Members of Lower House—Qualifications—Election—First Lower House.—Each member of the lower house shall be elected for a term of two years, and in addition to the other qualifications required by this charter, shall at the date of his election have resided for one year in the ward which he may be chosen to represent. Each member shall be elected by the qualified voters of the ward which he may be chosen to represent, and if, after his election he shall remove from such ward, his office shall thereby be vacated. The members of the Lower House of the Common Council of said Kansas City in office at the time this charter goes into effect shall become and constitute the first Lower House of the Common Council hereunder and shall hold office until the expiration of the term for which they were respectively elected.

Sec. 4. Additional Qualifications of Members of Common Council—Forfeiture of Office.—Every member of the Common Council shall also possess the following qualifications: He shall not be directly or indirectly interested in any contract with the city, or any department or institution thereof, or in any petition or application for any franchise from the city, or in furnishing any supplies to the city, or any department thereof, or to any contractor under the city, or in the sale or purchase of any property to or by the city, nor shall he be an officer, stockholder or employe of any person, firm or corporation so interested as aforesaid, nor of any person or firm or corporation discharging a public or quasi-public service under a franchise from the city, nor shall he be directly or indirectly interested in the sale or purchase of supplies or material, or insurance, or the making of bonds, to or by any person, firm or corporation contracting with the city or applying to the city for any permit or privilege

requiring action by the Common Council, and he shall not be indebted to the state, county, or city on account of any tax. He shall not have been convicted of malfeasance in office, bribery or other corrupt practices or crimes. Before any member of the Common Council shall take his seat or perform the duties of his office, he shall take and subscribe an oath before the City Clerk that he possesses all the qualifications for the office to which he is chosen, and is not subject to any of the disqualifications in this charter named, and that he will support the Constitution of the United States and of this State and the provisions of this charter, and faithfully discharge the duties of his office. Any member who shall at any time during his term cease to possess any of the qualifications mentioned in this charter shall thereby forfeit his office, and the same shall be filled as provided for in cases of other vacancies. Such forfeiture may be determined and declared by any court of competent jurisdiction, on information in the nature of *quo warranto* at the relation of the city or of any one or more of the tax payers or qualified voters thereof.

Member of the council is a city officer within meaning of R. S. 1899, Sec. 2346, R. S. 1909, Sec. 4877, providing that city officer is guilty of misdemeanor if he becomes interested in city contract. He may be punished although same statute provides for removal from office. (State vs Kelly, 103 Mo. App. 711.)

For discussion of who are officers see State ex rel. vs Gray, 91 Mo. App. 438; State ex rel. vs Harter, 188 Mo. 516.

In cities or counties having more than 200,000 inhabitants no person shall at the same time be a State officer and a city officer. No person shall at the same time fill two municipal offices either in the same or different municipalities. This section does not apply to Notaries Public, Jus-

tices of the Peace, or officers of the militia. (Constitution Art. 9, Sec. 18.)

Member of General Assembly cannot be municipal officer. (State ex rel. vs. Valle, 41 Mo. 29.)

Sheriff is not state officer. (State ex rel. vs Bus, 135 Mo. 325.)

Nor is jury commissioner in St. Louis. (State ex inf. vs. Corcoran, 206 Mo. 1.)

Acceptance from railroad of free pass or free ticket or ticket at a discount by municipal officer works forfeiture of his office. (Constitution, Art. 12, Sec. 24.)

Conviction of malfeasance in office, bribery or other corrupt practices or crimes means those of the same class as those enumerated. Selling lottery tickets is not such. (State vs Bersch, 83 Mo. App. 657.)

Sec. 5. Compensation of Members.—Each member of the Common Council shall receive for his services as councilman the sum of Five Dollars for each meeting of the Council which he shall attend during his term of office; *provided, however*, that no extra compensation shall be allowed to such councilman for serving on any committee, agency or commission whatever, when appointed to perform such services by either or both Houses of the Common Council dur-

ing his term of office, and in no case shall the aggregate sum paid to such councilman for services above enumerated exceed the sum of Three Hundred Dollars per annum.

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| One who is councilman de facto but not de jure cannot recover compensation for office. (<i>Sheridan vs St. Louis</i> , | 183 Mo. l. c. 38. See Art. 4, Sec. 24, note.) |
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Sec. 6. Presiding Officers—Sergeant at Arms and Assistants.

The Upper House shall choose one of its own members to preside over its deliberations, who shall be known as president. The Lower House shall choose one of its own members to preside over its deliberations, who shall be known as speaker. Each House shall appoint a sergeant-at-arms and his assistants.

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| Presiding officer holds his office at will of majority and may be removed by them at any meeting. (<i>State ex</i> | rel. vs Alt. 26 Mo. App. 673.) His functions are legislative. (<i>Albright vs Fisher</i> , 164 Mo. 56.) |
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Sec. 7. Each House, Judge of Election of Its Own Members—To Determine Rules of Proceedings—Expel Members—Quorum.—Each house shall be the judge of the election, return and qualifications of its own members and shall determine contested elections of its own members, subject to the limitations prescribed by the Constitution and laws of this State. Each house shall determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine not exceeding Fifty Dollars or imprisonment in the city prison not exceeding three days, or both, any person not a member who shall be guilty of disrespect to such House by any disorderly or contemptuous behavior in its presence during its session; may punish its members for disorderly conduct, and by an affirmative vote of two-thirds of its members elect, may suspend or expel a member of such House for disorderly conduct, disqualification as set forth in section four of this article, or for malfeasance in office. A majority of all the members elect of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

It is solely within sphere of council to judge of qualifications of its members. Exercise of this judgment cannot be controlled by writ of mandamus. (*State ex rel. vs Bersch*, 83 Mo. App. 657.)

When council declares member ineligible and ousts him a vacancy is created which must be filled in manner provided by Section 11 of this article. (*Sheridan vs St. Louis*, 183 Mo. 25, l. c. 38.)

But although council may adjudge member qualified and eligible, right of office may be investigated by the courts and eligibility may be determined in quo warranto proceedings. (Section 4 of this article; *State ex rel. vs Fitzgerald*, 44 Mo. 425; *State ex rel. vs Dayton*, 77 Mo. 678.)

Contested elections must be determined by courts and not by council. (Constitution Art. 8, Sec. 9; *R. S. 1899, Sec. 7029*; *State ex rel. vs John*, 81 Mo. 13; *State ex rel. vs Slover*, 134 Mo. 10.) In *Sheridan vs St. Louis*, 183 Mo. 1. c. 31 the court says "the St. Louis House of Delegates has power to determine the contest over the election," but cites no authority for it.

Quorum.—In absence of statutory re-

striction legislative body of municipality, when lawfully in session with a quorum present, has the inherent power to adjourn by majority vote to a future date but charter and statutory provisions in regard to adjournment and special meetings must be strictly followed. Where meeting is organized with quorum present and members are excused so that quorum is not present a smaller number than majority may adjourn from time to time. (*Rackliffe & Gibson vs Duncan*, 130 Mo. App. 695.)

Rules may be suspended, waived or modified. (*Sedalia vs Montgomery*, 109 Mo. App. 197, 1. c. 210; *Sedalia ex rel. vs Scott*, 104 Mo. App. 595.)

Sec. 8. Journal of Proceedings—Recording Vote.—Each House shall keep a journal of its proceedings, and the yeas and nays of its members on any question shall, at the request of any two members, be entered therein, and the yeas and nays shall be recorded on the final passage of all ordinances.

Acts and ordinances of cities are evidenced by entries in the journal. (*Stewart vs City of Clinton*, 74 Mo. 603, 1. c. 611.)

City is bound by journal whether true or false. Property owner is only bound when it recites truthfully those things necessary to give jurisdiction. (*Paving Company vs O'Brien*, 128 Mo. App. 267, 1. c. 283; *Sedalia vs Montgomery*, 109 Mo. App. 197, certified to Supreme Court as in conflict with *Knopff vs Roofing Company*, 92 App. 279 and *Sedalia vs Scott*, 104 Mo. App. 595.)

Silence of a member does not evidence his consent to a measure. (*Carle vs De Soto*, 63 Mo. App. 161, 1. c. 164.)

Held in *Ball vs Fagg*, 67 Mo. 481 that city clerk's attestation of date

of mayor's approval of city ordinance cannot be contradicted by parol evidence. Approved in *Cox vs Mignery*, 126 Mo. App. 669, 1. c. 679.

As to whether the minutes of council or board of public improvements are admissible to show that ordinance valid upon its face was not legally passed, see *Bambrick vs Campbell*, 37 Mo. App. 460, 1. c. 464; *Fruin Bambrick Co. vs Geist*, 37 Mo. App. 509.

Ordinances are entitled to the presumptions indulged with respect to statutes enacted by the State Legislature. Effect of alterations in journal. (*Cox vs Mignery*, 126 Mo. App. 669.)

Signature of mayor in journal is not his official signature to ordinance; (*State ex rel. vs Wilder*, 211 Mo. 305, 1. c. 318.)

Sec. 9. Public Improvements—Appropriating Money—Increasing or Diminishing Revenue—Vote Necessary.—A vote of the majority of all members elect of each house shall be necessary to pass ordinances for public improvements, ordinances appropriating money for any purpose, and ordinances in anywise increasing or diminishing the city revenue.

Majority of de facto members is majority of members elect. (*Simpson vs McGonegal*, 52 Mo. App. 540; *Hilgert*

vs Barber Asphalt Paving Co., 107 Mo. App. 385.)

Sec. 10. Members of Common Council Not Appointed to Other City Office, or Employment.—No member of the Common Council shall, during the term for which he is elected, be appointed to any office under the city, nor shall he, while such member, be an employe of the city in any capacity whatever.

See note to Section 4, this article.

Sec. 11. Vacancies in Either House—How Filled.—All vacancies that may occur in the Common Council from any cause shall be filled until the next general city election thereafter, by a vote of the majority of a legal quorum of the House in which such vacancy exists, at any regular meeting thereof held after the meeting at which such vacancy shall have been reported to such House. At the next general city election thereafter such vacancies shall be filled by vote of the people for the unexpired portion, if any, of the term of office in which the vacancy exists. No member shall be elected to any vacancy who does not possess the qualifications required for membership in the house in which such vacancy occurred.

Sec. 12. Tie in Vote for Member—Determination of.—Whenever there shall be a tie in the election of any member of either House, the officer or officers canvassing the vote and authorized to certify the result of the election shall certify the facts to such House, and the parties named in such certificate shall immediately, in the presence of such House, determine by lot which shall be the member elect.

Sec. 13. Meeting—Mayor May Convene—Petitions and Remonstrances.—A regular meeting of the Common Council shall be held on Monday of each week, except legal holidays, at such hour as may be fixed by ordinance, provided that an additional regular meeting shall be held in the forenoon of the last day of the fiscal year in which the Mayor's term expires; and the Common Council may also be especially convened by the Mayor in pursuance of law. Any session of either House may be continued or adjourned from day to day or for more than one day, but no adjournment of either House shall be for a longer period than until the next regular meeting thereafter, as provided in this charter, and neither house shall, without the consent of the other, adjourn to another place than that in which the two Houses shall be sitting. Petitions or remonstrances shall be presented to either or both Houses of the Common Council in writing only.

Rackliffe vs Duncan, 130 Mo. App. 695, see also Section 7 of this article.

Sec. 14. Mayor May Call Special Session.—The Mayor shall call special sessions of the Common Council by proclamation, which shall be published as may be provided by ordinance. Whenever a special session of the Common Council shall have been called by the Mayor, they shall have the same powers to transact business as at a regular meeting.

Special sessions of council should be called by a proclamation duly published. (Forry vs Ridge, 56 Mo. App. 615; McQuiddy vs Vineyard, 60 Mo. App. 610; Bank vs. Ridge, 183 Mo. App. 506.)

Sec. 15. Common Council, Continuing Body—Ordinances Pending and Not Passed, Expire With End of Term.—The Common Council shall be a continuing body for and contemporaneous with the term for which the members of the Lower House are elected, and all ordinances and resolutions pending in either House which shall not have been passed by the Common Council before the end of the term for which the members of the Lower House are elected, as provided in this charter, shall expire with said term, and be of no validity or effect for any purpose whatsoever.

Sec. 16. Members to Have Access to Books, Papers and Records—Committees May Investigate Transactions of Officers—May Summon Witnesses—May be Represented by Counsel.—Members of the Common Council shall at all times for the purpose of inspection, have free access to the books, papers and records of the city in all public offices, and any committee of the Common Council, or of either House thereof, may investigate the transactions and accounts of all officers having the collection, custody or disbursement of public money, or having power to approve, allow or audit demands on the treasury, and any such committee in making such investigation, or in investigating any matter that may lawfully be referred to it by said Common Council, or either House thereof, shall have power to summon witnesses, administer oaths and affirmations, and examine witnesses, and compel their attendance before them by subpoena, and any person appearing before any such committee shall have the right to be represented by counsel.

ARTICLE III.

POWERS OF COMMON COUNCIL.

Section.

1. Legislative Powers Vested in Mayor and Common Council in Forty-two Sub-Divisions.
2. Appropriation of Money—Apportionment of Revenue to be Raised for Year—Indorsement of Comptroller.
3. Public Safety and Health—Inspection.
4. Ordinances—Style of—Originate in Either House.
5. Ordinances—Passage—Signing—Amending—Approval—Vote.
6. Ordinances—Executive Privilege as to Items of Appropriation.
7. Ordinances—Veto of—Proceeding—Vote.
8. Ordinances—No Action by Mayor—Becoming Laws.

Section.

9. Ordinances—Reviving or Re-enacting.
10. Ordinances—Amending.
11. Ordinances—Failing to Pass—Reconsideration—Vote When Taken.
12. Ordinances—How Proved—Received in Evidence.
13. Common Council—Abstract of Proceedings—Communications of Officers Published in Full.
14. Ordinances—Clerk Shall Record, When—Index.
15. Taxation—Exemption, Remission, Abatement, Reduction, Valuation.
16. Sidewalks—Curbing—Guttering, Etc.—Care of by Owner—Police Regulation.

Section 1. Legislative Powers Vested in Mayor and Common Council.—All powers conferred upon the city by the charter or the general laws of the State of Missouri shall be exercised by ordinance, except as otherwise provided in this charter, and the Mayor and Common Council shall have power and authority, by ordinance, not inconsistent with the Constitution and laws of this State, and subject to the limitations expressed in this charter:

The powers, obligations and liabilities of the city in general are treated in note to Article 1, Section 1.

The powers of the common council, the exercise of those powers and the powers of the city in regard to the special subjects enumerated in this article will be treated in the notes to this article.

Municipal Powers.—City can exercise only such powers as are (1) expressly granted by its charter; (2) necessarily or fairly implied; (3) essential to its declared objects and purposes. (Nevada to use vs Eddy,

123 Mo. 546; St. Louis vs Bell Telephone Co., 96 Mo. 623; Sedalia Gaslight Co., vs Mercer, 48 Mo. App. 644; Knapp vs Kansas City, 48 Mo. App. 485; Plattsburg vs Trimble, 46 Mo. App. 459; Trenton vs Clayton, 50 Mo. App. 535; Knox City vs Thompson, 19 Mo. App. 523; Water Company vs Aurora, 129 Mo. 540; K. C. Sewer Pipe Co. vs Thompson, 120 Mo. 218; Kansas City vs Swope, 79 Mo. 446; Stewart vs Clinton, 79 Mo. 603; St. Louis to use vs Clemens, 43 Mo. 395; Carondelet to use vs Picot, 38 Mo. 125; State vs Railroad, 75 Mo.

208; *Howsmen vs Trenton Water Co.*, 119 Mo. 304; *Springfield to use vs Weaver*, 137 Mo. 650. State vs *Butler*, 178 Mo. 272, 1. c. 203; *St. Louis vs Kalme*, 180 Mo. 309, 1. c. 319; State ex rel. vs *Wilder*, 200 Mo. 97, 1. c. 105. *Chillicothe ex rel. vs Henry* (K. C. App. Mch. 19, 1909) 118 S. W. 486.)

City cannot by definition enlarge its powers beyond the grant of the charter. (*City of Brookfield vs Kitchen*, 163 Mo. 546, 1. c. 550; See introductory note. Note to Article 1, Section 1.)

See notes to various special subjects in this article.

See Art. 1, Sec. 1.

The powers conferred by this section must be exercised by ordinance and can be exercised only in that manner. (*Trenton vs. Coyle*, 107 Mo., 193; *Saxton vs St. Joseph*, 60 Mo. 153; *Thomson vs Boonville*, 61 Mo. 282; *Werth vs Springfield*, 78 Mo., 107; *Stewart vs. Clinton*, 79 Mo., 603; *Saxton vs. Beach*, 50 Mo., 488; *City of Unionville vs. Martin*, 95 Mo. App., 28; *Gardner vs St. Joseph*, 96 Mo. App. 657; *Dougherty vs. Excelsior Springs*, 110 Mo. App., 623; *Mulligan vs. Lexington*, 126 Mo. App., 715; *Ruggles vs. Collier*, 43 Mo., 353).

Ordinance is not valid without mayor's signature unless it is passed over his veto. (*State vs. Butler*, 178 Mo., 272, 1. c. 340; State ex rel. vs. *Carr*, 67 Mo. 38; *Silvester vs St. Louis*, 164 Mo., 601).

Signing journal is not officially signing ordinance. (*State ex rel. vs. Wilder*, 211 Mo., 305, 1. c. 318).

Acts required to be done by ordinance cannot be done by resolution, nor can general ordinance authorize it to be so done. (*Cape Girardeau vs. Fougau*, 30 App. 551; *Eichenlaub vs. St. Joseph*, 113 Mo., 395; *Hisey vs. Charleston*, 62 Mo. App., 381; *Westport vs. Mastin*, 62 Mo. App., 647; *Poplar Bluffs vs Hoag*, 62 Mo. App., 672; *Young vs St. Louis*, 47 Mo., 492, 1. c., 495; *Nevada vs. Eddy*, 123 Mo., 546; *Reed vs. Peck*, 163 Mo., 333; *Sedalia vs. Donohue*, 190 Mo., 407).

A resolution has the same force as an ordinance, if adopted and approved with the formalities required for the enactment of an ordinance. (*State ex rel. vs. Allen*, 178 Mo., 555, 1. c. 574; *Springfield to use vs. Knott*, 49 Mo. App., 612; *Tipton vs. Norman*, 72 Mo., 380; *Crebs vs. Lebanon*, 98 Fed., 549).

Resolution ratified by subsequent ordinance. (*State ex rel. vs. Milling Co.*, 156 Mo., 620).

Cannot accomplish by order of council, mayor or other officer, what is required to be done by ordinance. (*Trenton vs. Coyle*, 107 Mo., 193; *Louisiana vs. Miller*, 66 Mo., 467; *Maudlin vs. Trenton*, 67 App., 452; *Lockwood vs. R. R.*, 122 Mo., 86; *Unionville vs. Martin*, 95 Mo. App., 28; *O'Dell vs Scranton* 126 Mo. App., 19).

Operation of ordinance cannot be suspended by resolution of common council. (*Eichenlaub vs. St. Joseph*, 113 Mo., 395).

The Common Council is a miniature general assembly, and its valid ordinances within the city have the force of laws passed by the legislature. (*State ex rel. vs. Walbridge*, 119 Mo., 383; *Taylor vs Carondelet*, 22 Mo., 105; *St. Louis vs. Foster*, 52 Mo., 513; State ex rel. vs. *Brown*, 57 Mo. App., 199; *Forry vs. Ridge*, 56 Mo. App., 615; *Kansas City Cable Co. vs. Kansas City* 29 Mo. App., 89; *Cox vs. Mignery*, 126 Mo. App., 669).

Charter bears same relation to ordinances as constitution does to statutes. (*Quinette vs. St. Louis*, 76 Mo., 402; *Forry vs. Ridge*, 56 Mo. App., 615, 1. c. 624; *Kansas City ex rel. vs. Swope*, 79 Mo., 446; *Ex parte Joffee*, 46 Mo. App., 360; *Ruggles vs. Collier*, 43 Mo., 353; *Verdin vs. St. Louis*, 131 Mo., 26, 1. c. 118).

Note Art. 1, Sec. 1.

Constitutional inhibition against special and local laws does not apply to municipal ordinances, (*St. Louis vs. Turnpike & Ferry Co.*, 14 Mo. App., 216).

Constitutional inhibition against class legislation applies to municipal ordinances. (*Hannibal vs. Telephone Co.*, 31 Mo. App., 23; *St. Louis vs. Russell*, 116 Mo., 248; *St. Louis vs. Howard*, 119 Mo., 41; *St. Louis vs. Fischer*, 167 Mo., 654; 194 U. S., 361; State ex rel. vs. *Flad*, 23 Mo. App., 185).

Ordinances must not unjustly discriminate between persons or corporations of the same class. (*River Rendering Co. vs. Behr*, 77 Mo., 91; *St. Louis vs. Russell*, 116 Mo., 248; *Kansas City vs. Sutton*, 52 Mo. App., 398; *Hannibal vs. Telephone Co.*, 31 Mo. App., 23).

The reasonableness of ordinances is

a subject of judicial inquiry in suits to enforce rights claimed to arise thereunder. (State ex rel. vs. Birch, 186 Mo., 205, l. c. 219 and cases there cited; St. Louis vs. Theater Co., 202 Mo., 690, l. c. 699; Springfield vs. Jacobs, 101 Mo. App., 339).

Corporate existence must be challenged by quo warranto but reasonableness of ordinances extending limits may be attacked collaterally. (State ex rel. vs. Birch, 186 Mo., 205, l. c., 219).

Reasonableness of ordinance should not be submitted to jury. (Neler vs. Mo. Pac. Ry. Co., 12 Mo. App., 25; Fruin-Bambrick Co. vs. Geist, 37 Mo. App., 509, l. c. 516). Nor should construction of ordinance. (Barton vs. Odessa, 109 Mo. App., 76).

Ordinances held reasonable upon attack. (Plattsburg vs. Riley, 42 Mo. App., 18; Kelley vs. Meeks, 87 Mo., 396; Marionville vs. Henson, 65 Mo. App., 397; Gratiot vs. Railroad, 116 Mo., 450; Chillicothe vs. Brown, 38 Mo. App., 609; City of Kansas vs. Cook, 38 Mo. App., 660; Kansas City to use vs. Richards, 34 Mo. App., 521; Morse vs. Westport, 136 Mo., 276; St. Louis vs. Railroad, 89 Mo., 44; Tarkio vs. Cook, 120 Mo., 1; St. Louis vs. Weber, 44 Mo., 547).

Ordinances held to be void. (Springfield vs. Jacobs, 101 Mo. App., 339; Zumault vs. Railroad, 71 Mo. App., 670; Hannibal vs. Telephone Co., 31 Mo. App., 23; Lamar vs. Weldman, 57 Mo. App., 507; Cape Girardeau vs. Riley, 72 Mo., 220; St. Louis vs. Hill, 116 Mo., 527; Carpenter vs. Reliance Realty Co., 103 Mo. App., 480).

Ordinances for protection of public health sustained. (City of St. Louis vs. Galt, 179 Mo., 8; St. Louis vs. Liessing, 190 Mo., 464; St. Louis vs. Grafeman Dairy Co., 190 Mo., 492, and cases cited).

Ordinances are presumed to be valid and the burden is upon attacking party to show invalidity. (Savings Bank vs. Ridge, 183 Mo., 506, l. c., 518; State ex rel. vs. St. Louis, 174 Mo., 125, l. c. 136; Young vs. St. Louis, 47 Mo., 492.)

And are presumed to be passed as required by charter. (State ex rel. vs. St. Louis, 169 Mo., 31, l. c., 37; St. Louis vs. Gleason, 15 Mo. App., 25, l. c., 29).

When different parts of ordinances are necessarily dependent upon each other, if part is void whole is void. (Hannibal vs. Telephone Co., 31 Mo. App., 23; Kirkwood vs. Merrimac Highlands Co., 94 App., 637.)

But when different provisions of ordinances are severable from and not dependent upon each other, part may be sustained and part held invalid. (St. Louis vs. Liessing, 190 Mo., 464; St. Louis vs. Grafeman Dairy Co., 190 Mo., 492; Water Co. vs. Neosho, 136 Mo., 498; St. Louis vs. Railway, 89 Mo., 44; Quinnette vs. St. Louis, 76 Mo., 402; Rockville vs. Merchant, 60 Mo. App., 365).

Ordinances must be in harmony with state laws. (See introductory note.)

Judicial control of council. See introductory note. (Knapp, Stout & Co. vs. St. Louis, 156 Mo., 343; Barber Asphalt Co. vs. French, 158 Mo., 534; State ex rel. vs. Gates, 190 Mo., 540).

After the passage of an ordinance it may be attacked for fraud in its procurement. (Kansas City vs. Hyde, 196 Mo., 498; Paving Co. vs. Field, 188 Mo., 182; Nagel vs. Railroad, 167 Mo., 89; Knapp, Stout & Co. vs. St. Louis, 153 Mo., 560, s. c., 156 Mo., 343).

Authority of council to delegate powers. (Ruggles vs. Collier, 43 Mo., 353; St. Louis vs. Clemens, 43 Mo., 395, s. c., 52 Mo., 133; Neill vs. Gates, 152 Mo., 585; St. Louis vs. Russell, 116 Mo., 248; St. Louis vs. Howard, 119 Mo., 41; Tipton vs. Norman, 72 Mo., 380; St. Louis vs. Lamp Co., 139 Mo., 560; St. Louis vs. Fischer, 167 Mo., 654, 194 U. S., 371; Unionville vs. Martin, 95 Mo. App., 28; Haag vs. Ward, 186 Mo., 325, l. c., 348; Sedalia to use vs. Donohue, 190 Mo., 407, l. c., 422; Childers vs. Holmes, 95 Mo. App., 154; Ramsey vs. Field, 115 Mo. App., 620; Municipal Securities Co. vs. Gates, 130 Mo. App., 552; Sluder vs. Transit Co., 189 Mo., 107; State ex rel. vs. Fort, 210 Mo., 512).

Instances of what is not delegation of power. (Whitworth vs. Webb City, 204 Mo., 579; Excelsior Springs vs. Ettenson, 120 Mo. App., 215; Dickey vs. Porter, 203 Mo., 1; St. Louis vs. Weltzel, 130 Mo., 600).

Council may define terms used in ordinances. (St. Louis vs. Weltzel, 130 Mo., 600).

First. To Control Finances and Property—Appropriate Money—Pay Debts and Expenses—To provide for the management and control of the finances and of all property, real, personal and mixed, belonging to the city, and to appropriate money and to provide for the payment of all debts and expenses of the city.

City has right to expend money on improvements outside of the city. (*Hagood vs City of La Grange*, 33 Mo., 244; *Haeussler vs. St. Louis*, 205 Mo., 656, l. c., 683; *Elting vs. Hickman*, 172 Mo., 237, l. c., 259).

Council has no power to donate funds as a gratuity.

Council cannot pay sum in excess of amount due under terms of a contract. (*Campbell vs. St. Louis*, 71 Mo., 106).

Where city appropriates to its own use, in its water works system, water pipes laid by individual, council may appropriate money to pay for such water pipes. (*State ex rel. vs. St. Louis*, 169 Mo., 31).

Council cannot appropriate money

to charitable institutions not under control of city. (*Hitchcock vs. St. Louis*, 49 Mo., 484).

Nor to the National Guard. (*Knapp vs. Kansas City*, 48 Mo. App., 485). But see clause 39, this article.

Council may appropriate money to reimburse police officer for damages recovered from such officer for injuries to a child inflicted by officer while making an effort to kill a mad steer at large on street. (*State ex rel. vs. St. Louis*, 174 Mo., 125. See also *O'Dell vs. Scranton*, 126 Mo. App., 19.)

Constitution, Art. IV, Sec. 47, p. 61, of this volume. Sec. 48, page 61, of this volume. Art. IX, Sec. 6, p. 66, of this volume. Art. IX, Sec. 19, page 68, of this volume.

Second. To Acquire Property—Provide Manner of Entering Into Contracts—Accept or Reject Property—Execution of Trusts—Purchase of Property Under Execution—Purchase of Property Sold for Taxes, and Sale of Such Property—Sale at Auction of Personal Property Unfit for Use of City.—To acquire for the city such property, real, personal and mixed, as may be needed for public use, when the method for acquiring the same has not been otherwise provided in this charter; to provide the manner and method of entering into contracts by the city in all cases not in this charter otherwise provided; to accept or reject all property, real, personal and mixed, given, conveyed, devised, or bequeathed to the city, and to provide for the execution of all trusts accepted by the city; to provide for the purchase of property levied upon under execution in favor of the city; to provide for the purchase of personal property when sold for delinquent taxes and assessments levied or imposed under the charter of the city, and to sell and convey the same, but the sum paid by the city for any piece or parcel of property so sold on execution in favor of the city or for delinquent taxes or assessment shall not exceed the amount of such debt, tax or assessment, and the necessary costs and expenses of the proceedings for the collection of the same; to provide for the sale at public

auction of all personal property unfit or unnecessary for the use of the city, and of all other property, real, personal or mixed, which the city may lawfully sell.

Power of City to Acquire Property.—We have no statute of mortmain. The power of city to hold real estate can be questioned only by the state. (*Chambers vs. St. Louis*, 29 Mo. 543; *Hafner vs. St. Louis*, 161 Mo. 34.)

Right to enforce contract of purchase of real estate against city. (*Vaughn vs. Greencastle*, 104 Mo. App. 206.)

The city has the power that is given to corporations by the general law to take, hold and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter, whether the property be situated within or without the city limits. It may take property by devise and may hold it in trust for charitable purposes. The power to hold property for purposes designated in the charter does not exclude the power to hold property for purposes not designated in the charter, unless expressly forbidden by the charter. (*Christy's Administrator vs. St. Louis*, 20 Mo., 143; *Chambers vs. St. Louis*, 29 Mo., 543; *Hafner vs. St. Louis*, 161 Mo. 34; *Haeussler vs. St. Louis*, 205 Mo., 656; *St. Louis vs. Crow*, 171 Mo., 272.) Power to deal with property that has been bought by city. (*State ex rel. vs. Schweickardt*, 109 Mo. 1. c. 508, 509.)

An owner of land may, without deed or writing, dedicate it to public uses. No particular form or ceremony is necessary. Assent of owner and use for purposes intended by appropriation all that is necessary. (*Rector vs. Hartt*, 8 Mo., 448.)

Dedication to public use may be shown by plat. (*City of Hannibal vs. Draper*, 15 Mo., 635.)

No ordinance of formal acceptance of dedication is necessary. (*Rose vs. City of St. Charles*, 49 Mo., 509.)

Legal fee remains in original proprietors but must be held by them for donated use as long as that use continues. Upon cessation of use the title reverts. (*Cummings vs. St. Louis*, 90 Mo., 259; *Campbell vs. Kansas City*, 102 Mo., 326; *Hand vs. St.*

Louis, 158 Mo., 204 and cases there cited.)

When dedication by plat, deed or other writing shows intention to convey unlimited fee for particular purposes title does not revert on cessation or diversion of use but equity may compel specific execution of trust. (*Hand vs. St. Louis*, 158 Mo., 204; *Goode vs. St. Louis*, 113 Mo., 257.)

Land deeded to city on condition reverts to grantor on failure to comply with such condition. (*Clarke vs. Brookfield*, 81 Mo., 503; *Baker vs. St. Louis*, 75 Mo., 671.)

As to whether provision in grant is a condition or a covenant and whether an action to declare a forfeiture is necessary, see *St. Louis vs. Wiggins Ferry Co.*, 88 Mo., 615; *Studdard vs. Wells*, 120 Mo., 25; *Railway Co. vs. Frowein*, 163 Mo., 1.

Husband cannot dedicate wife's land to public use unless she joins in conveyance. (*City of Marshall vs. Anderson*, 78 Mo., 85.)

Private property condemned or dedicated for one public use cannot be appropriated to another and different use. Use for street purposes of property donated for park may be enjoined by adjacent property owners. (*Price vs. Thompson*, 48 Mo., 361.)

Property condemned for wharf purposes cannot be used for warehouse. (*Sugar Refining Co. vs. Elevator Co.*, 82 Mo., 121, cases there cited on page 127; *Board of Regents vs. Painter*, 102 Mo., 464.)

See Art. 1, Sec. 1.
Manner and Method of Entering Into Contract.

Power of city to make contract see Art. 1, Sec. 1, note.

City has power to enter into contracts as incident to and in carrying out its other powers. (*Howsman vs. Trenton Water Co.* 119 Mo., 204. 1. c. 313.)

But city cannot make any contract unless it be within the scope of its powers or be expressly authorized by law, nor unless such contract be made upon a consideration wholly to be performed subsequent to the making

of the contract and such contract, including the consideration, shall be in writing and dated when made and be subscribed by the parties or their agents authorized by law. (R. S. 1899 Sec. 6759; R. S. 1909, Sec. 2778.)

Section 6760 R. S. 1899, R. S. 1909, Sec. 2779, requires duplicate copies to be made and filed with the clerk in every case of contract entered into by the city. It is not a condition precedent to its becoming a contract that instrument embodying terms shall be signed in duplicate and filed with the clerk. (Saleno vs. City of Neosho, 127 Mo., 627; Water Co. vs. City of Neosho, 136 Mo., 498; State ex rel. vs. City of Neosho, 203 Mo., 40; Perkins vs. School District, 99 Mo. App., 483; Blades vs. Hawkins, 133 Mo. App., 328.)

City cannot create nor authorize agent to make contract otherwise than by writing. (Savage vs. City of Springfield, 83 Mo. App., 323.)

Compensation must be fixed in amount or by rate by written contract. (Woolfold vs. Randolph County, 83 Mo., 501.)

Ordinance on part of city and written acceptance thereof on part of other contracting party is a contract in writing under the statute. (California vs. Telephone Co. 112 Mo. App., 722 l. c. 727; Blades vs. Hawkins, 133 Mo. App., 328.)

Unless otherwise provided by char-

ter council must make or authorize contract by ordinance. Council cannot ratify invalid contract after its performance. (Clay vs. City of Mexico, 92 Mo. App., 611, l. c. 619.)

Ratification must comply with all requirements of law for making contract before the invalid contract is performed. In other words council may make a new valid contract in place of invalid executory contract but cannot ratify a void executed contract. (Kolkmeier vs. City of Jefferson, 75 Mo. App., 678; State ex rel. vs. Milling Co. 156 Mo., 620, l. c. 634; City of Unionville vs. Martin, 95 Mo. App., 28 l. c. 37, approving Tiedeman on corporations, Sec. 170; Phillips vs. Butler Co. 187 Mo. 698, l. c. 713; Clay vs. City of Mexico, 92 Mo. App., 611; Heidelberg vs. St. Francois County, 100 Mo. 69; Snyder vs. Ry. Co. 112 Mo., 527. But see O'Dell vs. Scranton 126 Mo. App. 19.)

Valid provision of ordinance in relation to employment of city employes enters into contract of employment. (State ex rel. vs. Kent, 98 Mo. App., 281, l. c. 286, s. c. 176 Mo., 44.)

License issued by city is not a contract by city. (St. Charles vs. Hackman, 133 Mo., 634.)

For power of city to make contract, liability on contract, ratification of contract and estoppel, see note to Article 1, Section 1.

See Art. 1, Sec. 1.

Third. Taxation.—To provide for the payment of public work by special assessments on real estate; for the levying and collection of special assessments; and for the levying and collection of taxes upon all property made taxable for city purposes within the limits of the city and not exempted by general law from municipal taxation.

The right to levy taxes, either general or special, is vested primarily in legislature, may be, and generally is, delegated to legislative body of municipality. Only subject of inquiry is whether municipality acted within its powers. (Kansas City Grading Co. vs. Holden, 107 Mo., 305.)

Distinction between assessment of benefits against property in condemnation proceedings and for local improvements. (St. Louis vs. Buss, 159

Mo., 9, l. c. 12; Eyssell vs. St. Louis, 168 Mo. 607; St. Louis vs. Lawton, 189 Mo., 474, l. c. 484; St. Louis vs. Brinckwirth, 204 Mo., 280; Keith vs. Bingham, 100 Mo. 300.)

Special taxation is sustainable under the taxing power. (Keith vs. Bingham, 100 Mo., 300; Springfield, vs. Baker, 56 Mo. App., 637; Heman Construction Co. vs. R. R., 206 Mo. 172; Meier vs. St. Louis, 180 Mo. 391.)

State constitutional provisions on

taxation do not apply to special taxation. (Meyer vs. St. Louis, 180 Mo. 391, l. c. 408; Farrar vs. St. Louis, 80 Mo. 379; St. Joseph vs. Owen, 110 Mo. 445; Adams vs. Lindell, 5 Mo. App., 197, s. c. 72 Mo. 198; Heman Construction Co. vs. Wabash Ry. Co., 206 Mo., 172; Paving Co. vs. St. Joseph, 183 Mo., 451.)

Exemption from general taxation is not an exemption from special assessments. (Sheehan vs. Hospital, 50 Mo. 155; City of Clinton vs. Henry County, 115 Mo., 557; Exposition Driving Park vs. Kansas City, 174 Mo., 425, l. c. 443; State ex rel. vs. Kansas City, 89 Mo. 34; Corrigan vs. Kansas City, 211 Mo. 608; St. Louis vs. Decatur, 147, U. S. 190.)

Church property is subject to special assessment. (Lockwood vs. St. Louis, 24 Mo., 20.) So is railroad property. (Heman Construction Co. vs. R. R., 206 Mo. 172; Laws 1907, pp. 92-93; R. S. 1909, Sec. 9543.) But omission from assessment does not invalidate other assessment (Kansas City vs. Bacon, 147 Mo., 259; Corrigan vs. Kansas City, 211 Mo., 608. Park maintenance tax.)

City cannot enter into an agreement that property shall be exempt from general taxes or special assessments, (Vrana vs. St. Louis, 164 Mo., 146; Rackliffe vs. Duncan, 130 Mo. App., 695.)

Property held for public use is not subject to special tax. (St. Louis vs. Brown, 155 Mo., 545; Barber Asphalt Paving Co. vs. St. Joseph, 183 Mo., 451.)

Validity of front foot and area district rule is settled beyond question. (Paving Co. vs. Peck, 186 Mo., 506; Paving Co. vs. Munn, 185 Mo., 552; French vs. Barber Asphalt Paving Co.,

181 U. S. 394, affirming s. c. 158 Mo. 534; Heman vs. Gilliam, 171 Mo. 258; Farrar vs. St. Louis, 80 Mo. 379; Collier Estate vs. Paving Co., 180 Mo., 362; Prior vs. Construction Co., 170 Mo., 439; St. Joseph vs. Farrell, 106 Mo. 437; Naylor vs. Harrisonville, 207 Mo. 341.)

Review of Special taxation by Federal courts. (French vs. Barber, 181 U. S. 394 affirming s. c. 158 Mo. 534; Norwood vs. Baker, 172 U. S. 269.)

Fact that person outside district may receive benefits equal to those who are assessed does not affect validity of assessment of latter. (Kansas City Grading Co. vs. Holden, 107 Mo., 305.)

Personal property may have such situs in city that city may tax it though owner resides outside of city. (Corn vs. City of Cameron, 19 Mo. App., 573; School Dist. vs. Wickersham, 34 Mo. App., 337.)

Legislature cannot authorize city to tax for its own local purposes lands lying beyond the corporate limits. (Wells vs. City of Weston, 22 Mo., 384; Town of Cameron vs. Stephenson, 69 Mo., 372; City of Hannibal vs. County of Marion, 69 Mo., 571.)

Constitutional limitations upon taxing power. (Constitution, Art. X, secs. 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, and 12, pp. 69-71 of this volume.)

When city may levy and collect taxes in excess of rate limited for general purposes to pay existing indebtedness. (Stanberry vs. Jordan, 145 Mo., 371; St. Joseph vs. Pitt, 109 Mo. App., 635.)

Constitutional limitation of amount of general taxes refers to debts which arise ex contractu and not to obligations arising ex delicto. (Conner vs. Nevada, 188 Mo., 148; State ex rel. vs. Neosho, 203 Mo., 40, l. c. 82.)

Fourth. Manufacturers, Merchants, Etc.—Licensing—Taxing—Regulating.—To license, tax and regulate manufacturers, merchants, commission merchants, dealers in second-hand goods, coal dealers, ice dealers, junk dealers, ice cream dealers, milk dealers, live stock dealers, produce dealers, patent right dealers, mercantile agencies, real estate agents, claim agents, adjusters and collectors, real estate brokers, financial agents, loan agents, rental agents, lighting rod agents, and other agents of whatever kind or character; cash register agencies, agents for cash registers, advertising agents, rail-

road ticket agents, railway traffic agents, typewriter agencies, private detectives, private detective agencies, agents and solicitors for nurseries, laundries, dye houses, clothes pressers and cleaners, renovating and repair establishments, sewing machine agents, brokers, pawn brokers, railroad ticket brokers, produce brokers, merchandise brokers, amusement ticket brokers, lumber brokers, lumber agents, brewers, beer depots or store rooms, distillers, brewers' agents, brewers' agencies, distillers' agencies, malt dealers, insurance companies of whatever class or character; insurance agents, agents for co-operative insurance, insurance solicitors, insurance brokers, and other brokers of whatever class or character; abstractors of land titles, guarantors of land titles, bankers, banking corporations, trust companies, investment companies, building companies, loan companies, surety companies, bonding companies and agents or solicitors for any surety companies or bonding companies; brokerage companies, newspaper publishers, publishing companies, publishing houses, printing establishments, telegraph companies, telephone companies, electric light companies, street railway companies, electric companies, gas companies, conduit companies, subway companies, heating companies, lighting companies, cold storage or refrigeration companies, oil companies, mining companies, express companies, automobile companies, automobile agencies, public garages, electric charging stations, automobile repair shops, bicycle repair shops, transfer companies, manufacturing and other corporations, institutions or establishments; poles and wires or conduits and wires of telegraph, telephone, electric light, street railway and electric and power companies; agents and agencies for the sale of oil stock, mining stock, and other stocks; lenders of money on chattels and chattel mortgages; public lecturers, lawyers, doctors and dentists, itinerant doctors, corn doctors, masseurs; venereal hospitals, other private hospitals and similar institutions; veterinary hospitals, veterinary surgeons and doctors; barber shops, hair dressing establishments, bath houses, hotels, ordinaries, apartment houses, confectioners, restaurants, boarding houses, tenement houses, office buildings, public halls, public grounds. photographers, artists, auctioneers, plumbers, stock yard and wagon yard proprietors, undertakers, meat shops, livery, board and sales stable keepers, shows, circuses, parades, operatic, theatrical and other exhibitions; amusements, concerts, theatres, theatrical agents, amusement parks, cattle shows, horse shows, automobile shows, dog shows, poultry shows, animal shows, menageries, museums, sparring exhibitions, equestrian exhibitions, horoscopic views, moving picture exhibitions, cycloramas, panoramas, skating rinks, wrestling exhibitions,

boxing contests, public masquerade balls; shooting galleries, dance halls, dance houses, fortune tellers, clairvoyants, palmists, lung testers, muscle developers, billiard parlors, billiard and pool tables and other tables and instruments used for amusement; pin alleys, ball alleys, street railway cars, omnibuses, hansom cabs, hackney coaches, drays, job wagons, carts, carriages, barouches, buggies, wagons, automobiles, motorcycles, bicycles and all vehicles, private or public; hawkers, hucksters, peddlers, auction house proprietors, runners, drummers, keepers of knife and board and cane racks, street stands; intelligence and employment agents and offices and keepers thereof; bill posters, inspectors and gaugers; public scales, grain elevators, storage and transfer houses; nurseries and nurserymen; slot weighing machines, automatic scales machines, automatic selling machines or devices, slot machines, gift enterprises, pool rooms, saloons, dramshops, beer houses, tippling houses, wine gardens and beer gardens; sales of unclaimed goods by express companies or common carriers;

And to license, tax and regulate all occupations, professions, trades, pursuits, corporations and other institutions and establishments, articles, utilities and commodities, not heretofore enumerated, of whatsoever name or character, like or unlike, and to fix the license tax to be paid thereon or therefor; and in the exercise of the foregoing powers, to divide the various occupations, professions, trades, pursuits, corporations and other institutions and establishments, articles, utilities and commodities into different classes.

The city may charge a separate license tax for each place of business conducted or maintained by the same person, firm or corporation.

Power of the State to Tax Trades, professions and occupations has remained unquestioned in this state since the case of *State vs. Simmons*, 12 Mo., 271 and such power may be delegated by the state to its municipalities. (*St. Louis vs. McCann*, 157 Mo., 301.)

But statute forbids license tax upon lawyers, doctors, ministers and teachers. (R. S. 1899, Sec. 5260; R. S. 1909, Sec. 8532.) For cases prior to statute see *St. Louis vs. Sternberg*, 69 Mo., 289; *St. Louis vs. Laughlin*, 49 Mo., 559.

The power to license may be exercised by the city either as a police regulation or for the purpose of raising revenue within constitutional limita-

tions. (*City of Springfield vs. Smith*, 138 Mo., 645, 1. c. 655.)

Power is conferred on city to collect a tax for revenue by way of a license. (*City of Lamar vs. Adams*, 90 Mo. App., 35 and cases cited page 41; See *State vs. Bengsch*, 170 Mo., 81, 1. c. 109.)

City may base license tax upon income. (*Express Co. vs. St. Joseph*, 66 Mo., 675.)

City may collect an ad valorem tax on property used in a calling and at the same time impose a license tax on the pursuit as a condition to the right to carry it on. (*City of Aurora vs. McGannon*, 138 Mo. 38; *City of Monett vs. Hall*, 128 Mo., App. 91, and cases cited on page 94.)

When license fee is a police regula-

tion. (St. Louis vs. Knox, 6 Mo. App., 247, s. c. 74 Mo., 79; Knox City vs. Thompson, 19 Mo. App., 523.)

The constitutional provisions as to equality and uniformity of taxation do not apply to license taxes. (St. Louis vs. Green, 7 Mo. App., 468, s. c. 70 Mo., 562; Kansas City vs. Richardson, 90 Mo. App., 450.)

So long as the ordinance applies alike to all members of a class the constitution is not infringed. (St. Louis vs. Bowler, 94 Mo., 630; City of Aurora vs. McGannon, 138 Mo., 38; Elting vs. Hickman, 172 Mo. 237, l. c. 258.)

A license cannot be imposed for one amount for a part of the city and a different amount for persons in the same class for another part. (St. Louis vs. Spiegel, 75 Mo., 145; St. Louis vs. Spiegel, 90 Mo., 587.)

Nor for a greater amount for one of a class than for another of the same class. Held that produce dealer cannot be taxed more than other merchant. (Kansas City vs. Grush, 151 Mo., 128, l. c. 135.)

But amount of license may depend upon amount of stock. (City of Aurora vs. McGannon, 138 Mo., 38.)

And the amount of license may vary between vehicles of different kinds. (Kansas City vs. Richardson, 90 Mo. App., 450.)

City cannot grant exclusive privileges. (Carroll vs. Campbell, 108 Mo. 550; Carroll vs. Campbell, 110 Mo., 557; Western Union Telegraph Co. vs. Light Co., 46 Mo. App., 120, l. c. 136; Town of Kirkwood vs. Meramec Highlands Co. 94 Mo. App., 637, l. c. 644; Cauble vs. Craig, 94 Mo. App., 675; Burnes vs. St. Joseph, 91 Mo. App., 489, l. c. 495.)

The city in exercising its power to regulate occupations may prohibit them in certain districts and permit them in others, but ordinances of this character are open to judicial inquiry as to reasonableness. (St. Louis vs. Weber, 44 Mo., 547; St. Louis vs. Russell, 116 Mo., 248; City of Tarkio vs. Cook, 120 Mo., 1; St. Louis vs. Spiegel, 8 Mo. App., 478; State vs. Beattie, 16 Mo. App., 131; St. Louis vs. Spiegel, 16 Mo. App., 210; Kansas City vs. McAleer, 31 Mo. App., 433.)

City cannot delegate to an officer the power to fix amount of license. (State ex rel. vs. Ashbrook, 154 Mo., 375.)

Where city has unrestricted power to prohibit and regulate an institution it may require permission by ordinance for the establishment of each particular institution. (St. Louis vs. Fischer, 167 Mo., 654, s. c. 194, U. S. 371.) But the power to determine the location of institutions or occupations cannot be delegated to the owners of the property in a block. (St. Louis vs. Russell, 116 Mo., 248; St. Louis vs. Howard, 119 Mo., 41.)

Right to establish or maintain an institution or occupation cannot be made to depend on the consent of occupants of the property in the neighborhood. (St. Louis vs. Howard, 119 Mo., 41.)

A contract by the city to exempt a particular corporation from a license tax is void; (Springfield vs. Smith, 138 Mo. l. c. 645.)

License is not a contract and a city may prohibit an occupation during the term for which it was licensed. (St. Charles vs. Hackman, 133 Mo., 634. But see State ex rel. vs. Baker, 32 App., 98.)

If different occupations are pursued by same person city may impose a license tax on each occupation. (St. Louis vs. Weitzel, 130 Mo., 600, l. c. 619.)

A license issued to a firm is protection to one of its members who continues to prosecute business after retirement of partner. (St. Charles vs. Hackman, 133 Mo., 634.)

The city may determine in what manner the tax is fixed and what the amount shall be, and acts in this legislatively and the courts, where authority to the city is specifically given, cannot review the same. (Green vs. St. Louis, 7 Mo. App., 468; (s. c. affirmed 70 Mo., 562.); St. Louis vs. Weitzel, 130 Mo., 600, l. c. 620. Aurora vs. McGannon, 138 Mo., 38, l. c. 46, and cases cited.)

Power of municipality to license may be sole and exclusive, (State vs. Willard, 39 Mo. App., 251; State vs. Kessels, 120 Mo., App. 233.)

City May Punish Failure to Pay License tax by a fine. (St. Louis vs. Green, 70 Mo., 562.)

As to authority of cities to punish agents for failure to comply with ordinance see City of Troy vs. Harris, 102 Mo. App., 51; City of Monett vs. Hall, 128 Mo. App., 91 and cases there cited. Punishment by fine does not exclude

other remedies. (Carroll vs. Campbell, 110 Mo., 557, l. c. 567.)

Prosecution under a city ordinance is but civil action. (St. Louis vs. Weitzel, 130 Mo., 600; Town of Canton vs. McDaniel, 188 Mo., 207, l. c. 228; Delaney vs. Police Court of Kansas City, 167 Mo. 667, l. c. 678; in re Ada Jones, 90 Mo. App., 318; City of Mexico vs. Harris, 115 Mo. App., 707; City of Gallatin vs. Fannin, 128 Mo. App. 324; Town of Gower vs. Agee, 128 Mo. App., 427.)

The city cannot impose a tax or regulation unless authorized by charter. (Kansas City vs. Grush, 151 Mo., 128, l. c. 131; St. Louis vs. Laughlin, 49 Mo., 559; St. Louis vs. Kalme, 180 Mo., 309.)

The statute (Sec. 6256, R. S. 1899; R. S. 1909, Sec. 9580), denies to any city the right to impose a license tax on any avocation or pursuit not specifically named in its charter. (Kansas City vs. Lorber, 64 Mo. App., 604; City of Independence vs. Cleveland, 167 Mo., 384; City of Carthage vs. Light Co., 97 Mo. App., 20.)

Effect of words all occupations, &c., not heretofore enumerated, of whatever name or character, like or unlike. (St. Louis vs. Bowler, 94 Mo., 630; St. Joseph vs. Lung, 93 Mo. App., 626.)

Rule of ejusdem generis. Architects. (St. Louis vs. Herthel, 88 Mo., 128; St. Louis vs. Bell Telephone Co., 96 Mo., 623); Meat shop keepers. (St. Louis vs. Freivogel, 95 Mo., 533.) Gambling device. (State vs. Bryant, 90 Mo., 534.) Lawyers. (St. Louis vs. Laughlin, 49 Mo., 559.) Games. (State vs. Williams, 35 Mo. App., 541; Agricultural Association vs. Delano, 108 Mo., 217.) Abstractor of titles. (St. Joseph vs. Porter, 29 Mo. App., 605.) Vehicles. (City of Hannibal vs. Price, 29 Mo. App., 280; Knox City vs. Thompson, 19 Mo. App., 523.) Building. (State vs. Schuchmann, 133 Mo. 111.)

Manufacturers.—For state provisions see Chap. 126, R. S. Mo., 1899, R. S. 1909, Chap. 117, Art. 16, Secs. 11646 to 11649; defined Sec. 8487 R. S. 1899; R. S. 1909, Sec. 11647.)

One who buys raw wine, refines it and sells it, is a manufacturer and not a dealer. (State vs. Bohnenkamp, 88 Mo. App., 173.)

One who manufactures ice but does

not buy and sell ice to other dealers is a manufacturer, not a dealer. (Kansas City vs. Butt, 88 Mo. App., 237.)

A tailor making up cloth for his customers is a manufacturer, not a merchant. (State vs. West, 34 Mo., 424.)

When manufacturer is a merchant. (Kansas City vs. Helm Brewing Co., 98 Mo. App., 590.)

Merchants.—(State regulations Chap. 129 R. S. Mo., 1899, R. S. 1909, Chap. 117, Art. 15, defined R. S. Mo., 1899, Secs. 8549 and 8565, R. S. 1909, Secs. 11626 and 11642; State vs. Whittaker, 33 Mo. 457.)

Single sale is not violation of law in regard to merchants license. (City of Troy vs. Harris, 102 Mo. App., 51; State vs. Whittaker, 33 Mo., 457.)

Term includes ice dealers. (City of Kansas vs. Vindquest, 36 Mo. App., 584.)

And produce dealers. (Kansas City vs. Lorber, 64 Mo. App., 604.)

Where term "commission merchants and produce dealers" is used person following either vocation cannot escape tax because he does not engage in both. (Kansas City vs. Grush, 151 Mo., 128.)

Agent having no ownership in wares is not a merchant. (City of Troy vs. Harris, 102 Mo. App., 51.)

Circumstances under which one taking orders by sample for goods to be shipped from another state is a merchant. (City of Canton vs. McDaniel, 188 Mo., 207.)

It is immaterial that person by his labor changes the form of goods sold. If he deals in selling them at a place occupied for that purpose he is a merchant and it is immaterial that the place may be also occupied for some other purpose. (State vs. Whittaker, 33 Mo., 457.)

Payment of ad valorem tax by merchant does not preclude levy of occupation tax. (City of Monett vs. Hall, 128 Mo. App., 91.)

Itinerant or Transient Merchants.—License held unreasonable in amount. (City of Springfield vs. Jacobs, 101 Mo. App., 339.)

Agents.—Insurance agents: Under statute city can only tax agencies of companies and not also agents. (Kansas City vs. Oppenheimer, 100 Mo. App., 527. See St. Joseph vs. Ernst, 95 Mo. 360.)

Real Estate Agents.—(St. Louis vs. McCann, 157 Mo. 301.)

Unlicensed real estate agent may recover commission. (Prince vs. Baptist Church, 20 Mo. App., 332; Tooker vs. Duckworth, 107 Mo. App., 231.)

City has not power to fine real estate agent for failure to make secure dangerous building belonging to another. (St. Louis vs. Kalme, 180 Mo., 309.)

Sewing Machine Agents.—(St. Louis vs. Bowler, 94 Mo., 630.)

When agent is liable for failure of principal to procure license. (City of Troy vs. Harris, 102 Mo. App., 51; State vs. Field, 49 Mo., 270.)

When city has no authority to exact license for a business it has no authority to impose license fee on agent for that business. (City of Independence vs. Cleveland, 167 Mo. 384.)

Hawkers, Peddlers, Etc.—State regulation Chap. 140 R. S. 1899, R. S. 1909, Chap. 91. A class cannot be embraced in an ordinance that the statute expressly eliminates from the class defined by the statute to be peddlers, therefore one going about from place to place offering books for sale cannot be taxed as a peddler. (Moberly vs. Hoover, 93 Mo. App., 663.) Commercial agents or drummers are not peddlers. (Town of Trenton vs. Clayton, 50 Mo. App., 535.) One selling fruits, vegetables, poultry, eggs, &c., grown by him cannot be taxed as a hawker or peddler. (St. Louis vs. Meyer, 185 Mo., 583.)

Milk Dealers.—(St. Louis vs. Grafeman Dairy Co., 190 Mo., 492.)

Hotels, Etc.—(St. Louis vs. Bircher, 76 Mo., 431; City of Independence vs. Noland, 21 Mo., 394; St. Louis vs. Siegrist, 46 Mo., 593.)

Insurance Companies.—(St. Joseph vs. Ernst, 95 Mo., 360. City of Lamar vs. Adams, 90 Mo. App., 35; City of Farmington vs. Rutherford, 94 Mo. App., 328; Kansas City vs. Oppenheimer, 100 Mo. App., 527.)

Express Companies.—(Express Co. vs. St. Joseph, 66 Mo. 675.)

Banks.—(State vs. Field, 49 Mo., 270.)

City cannot impose tax on National bank doing business within the city. (City of Carthage vs. First National Bank, 71 Mo., 508.)

Pawn Brokers.—May require pawnbrokers to keep book and enter therein description of property in pawn, with name and description of person leaving it, and to submit such book to mayor or any police officer on demand. (St. Joseph vs. Levin, 128 Mo., 588.)

Vehicles.—Licensing private vehicles, and the power to license and regulate fully considered. (St. Louis vs. Green, 70 Mo., 562, s. c. 7 Mo. App. 468, 6 Mo. App., 591; St. Louis vs. Grone, 46 Mo., 574; Hannibal vs. Price, 29 Mo. App., 280; Kansas City vs. Richardson, 90 Mo. App., 450.)

License tax imposed upon wagons of non-residents hauling into and out of city is invalid. (St. Charles vs. Nolle, 51 Mo., 122.)

License upon wagons used by laundry for free delivery. Full discussion of vehicle license. (Kansas City vs. Richardson, 90 Mo. App., 450.)

Automobiles.—(State vs. Swagerty, 203 Mo., 517; State vs. Cobb, 113 Mo. App., 156.)

May impose additional license fee upon vehicle used in different occupations. (St. Louis vs. Weltzel, 130 Mo., 600.)

May require license plate to be attached to vehicle at owner's expense; (St. Louis vs. Weltzel, 130 Mo. 600.)

"Vehicles" includes sprinkling carts; (St. Louis vs. Woodruff, 71 Mo., 92, s. c. 4 App., 169.)

Power to impose on street cars license tax other than that mentioned in franchise. (Kansas City vs. Corrigan, 18 Mo. App., 206.)

Ordinance requiring street railway companies to make quarterly reports of number of trips made and passengers carried held valid. (St. Louis vs. St. Louis Railway, 14 Mo. App., 221, s. c. 89 Mo., 44.)

Amusements.—(Neggrotto vs. City of Monette, 49 Mo. App. 286.)

Regulation of Billiard Tables.—(City of Plattsburg vs. Trimble, 46 Mo. App., 459; City of Tarkio vs. Cook, 120 Mo., 1.)

Bawdy Houses.—Clause 21, this section and note.

Dram Shops.—Clause 31 this section and note.

Gambling.—Clause 21 this section and note.

Fifth. Hackmen, Etc.—Licensing—Prohibiting Runners, Etc.—To license, tax and regulate hackmen, draymen, omnibus drivers, chauffeurs, or automobile drivers, porters, express drivers and all other persons, firms or corporations pursuing like occupations, with or without vehicles, and to fix and prescribe uniform rates and charges for such service to the public; and to regulate, license, tax, restrain and prohibit runners for steamboats, cars, stages, hotels and public houses.

Ordinance regulating hackmen and porters in their business pursuits, and forbidding soliciting customers at de-

pot or on railroad platform, held reasonable and valid. (*Chillicothe vs. Brown*, 38 Mo. App., 609.)

Sixth. Ferries—Charges for Switching, Etc.—To have exclusive power to license ferries, and to regulate the same, and the landing thereof within the limits of the city, and to fix and prescribe the charges and fees for ferries, and to regulate the charges for switching by or on any steam or other railway within the limits of the city.

State regulations, R. S. 1899, Chap. 106. R. S. 1909, Chap. 48, Art. 1.

A ferry privilege is a privilege of highway; is not included in power to regulate commerce, and may be licensed and regulated by city. (*St. Louis vs. Turnpike & Ferry Co.*, 14 Mo. App., 216; *Carroll vs. Campbell*, 110 Mo., 557; *State ex rel. vs. Campbell*, 25 Mo. App., 635; *Carroll vs. Campbell*, 25 Mo. App., 630; *Carroll vs. Campbell*, 108 Mo., 550; *Harrison vs. State*, 9 Mo., 530.)

But a grant by city of exclusive ferry privilege is void, in so far as it is attempted to be made exclusive; (*Carroll vs. Campbell*, 108 Mo., 550; *Same vs. same*, 110 Mo. 557.) City may, but cannot be compelled to grant ferry privileges to others, when: (*State ex rel. vs. Cramer*, 96 Mo., 75.)

Injunction will lie by licensee to restrain person not having license from running ferry. (*Carroll vs. Campbell*,

110 Mo., 557; *Cauble vs. Craig*, 94 Mo. App., 675.)

But validity of license and compliance with its terms can be questioned only by granting power. (*Capital City Ferry Co. vs. Transportation Co.*, 51 Mo. App., 228.)

A boat used by the owner to transport his own goods is not a ferry. (*Ferry Co. vs. Wisch*, 73 Mo., 655.)

Two or more may be jointly liable for operating ferry without license. (*State vs. Gay*, 10 Mo., 440.)

City may, as a condition to grant of license, limit ferry charges. (*State vs. Sickmann*, 65 Mo. App., 499.)

License tax on ferries between points in different states. (*Wiggins Ferry Co. vs. East St. Louis*, 107 U. S. 365.)

City may tax steam boat whose home port and situs is in city where owner resides. (*St. Joseph vs. Savelle*, 39 Mo., 461.)

Seventh. Regulating Licenses—Fees.—To provide the manner of issuing and regulating licenses, and the fees and charges to be paid therefor, and to provide for the revoking of the same. No license shall be granted for more than one year and not less than one dollar shall be charged for any license under this charter or any

ordinance, and the fees for issuing same shall not exceed one dollar, and all such fees shall belong to the city.

Where the legal requirements have been complied with by one applying for a license, its issuance by the proper officer may be compelled by mandamus. (St. Louis vs. Weitzel, 130 Mo., 600; State ex rel. vs. Baker, 32 Mo. App., 98; State ex rel. vs. Cramer, 96 Mo., 75.)

May require that applicant for li-

cense for garbage wagon furnish certificate from board of health. (St. Louis vs. Weitzel, 130 Mo., 600.) And that applicant for license to keep sales stable and deal in horses and cattle furnish certificate of police commissioners as to good moral character. (St. Louis vs. Knox, 6 Mo. App., 247.)

Eighth. Missouri River—Obstructions—Regulating Wharfs, Docks, Etc.—To remove and prevent all obstructions from and in the Missouri River within said city, and to widen, straighten and deepen the same; to construct and maintain dikes and revetments, and to erect, maintain and regulate wharves and docks, and to regulate the rates of wharfage within the limits of the city.

Obstructions in River.—(State ex rel. vs. Longfellow, 169 Mo., 109; Myers vs. St. Louis, 82 Mo., 367; St. Louis vs. Knapp Co., 104 U. S. 658; Railroad vs. Stock Yards, 120 Mo., 541.)

Right of city to charge and collect wharfage for use of wharf owned and improved by city. (Matthews vs. Alexandria, 68 Mo., 115; St. Louis vs. Shields, 52 Mo., 351; Sugar Refining Co. vs. Elevator Co., 82 Mo., 121; St.

Louis vs. Transportation Co., 84 Mo., 156; St. Louis vs. Coal Co., 113 Mo., 83; St. Louis vs. Coal Co., 158 Mo., 342; St. Louis vs. Lumber Co., 13 Mo. App., 56; Cape Girardeau vs. Campbell, 26 Mo. App., 12; Harman vs. Chicago, 147 U. S. 396; Packet Co. vs. St. Louis, 4 Dillon 10; Packet Co. vs. St. Louis, 100 U. S. 342; Vicksburg vs. Tobin, 100 U. S. 423.)

Ninth. Provide Waterworks, Etc.—To provide the city with water, and to make, regulate and establish public wells, pumps, cisterns, hydrants and reservoirs in or under the streets or other public places within the city or beyond the limits thereof within or without the State of Missouri, and to construct, maintain and operate waterworks with all appurtenances necessary or convenient thereco.

City has power to purchase supply of water outside the city and convey it to city and city debt may be created for such purpose. (Haeussler

vs. St. Louis, 205 Mo., 656, l. c. 681. R. S. 1899, Sec. 10585; R. S. 1909, Secs. 6493 to 6505, Laws 1909, p. 511.)

Tenth. Lighting Streets—Regulating Prices of Lighting Streets, and of Prices Charged by Individuals or Corporations for Cold Storage, Heat or Power.—To provide for lighting the streets and erecting lamps thereon and to regulate the price and quality of

gas, gasoline, electricity and other means of lighting, and the manner and means of lighting by electricity, and the power thereof, and to compel any gas company, electric light company, heating company, refrigerating or cold storage company or other company, individual or institution to change and re-locate any gas mains or other mains, pipes, appliances, or any poles or conduits for wires or other appliances, and to regulate the price and quality of gas, oil or other means of heating furnished by any such corporation or institution to the inhabitants of the city for heating purposes, and the prices to be charged by any corporation, individual or institution furnishing cold storage or refrigeration, heat or power, to the inhabitants or institutions within the city.

Right to regulate rates, of charge for lights, heating, refrigeration, &c., has been conferred upon city by the General Assembly. (Laws of 1907, 119; R. S. 1909, Secs. 9568-9569, 9570.) See Cl. 28.

Electric wires being dangerous their use is subject to police regula-

tions. (State ex rel. vs. Murphy 130. Mo., 10; Laclede Gas Light Co. vs. Murphy, 170 U. S. 78; City of Carthage vs. Garner & Lawson, 209 Mo., 688, l. c. 702.)

For authority of city to regulate location of poles, conduits, wires, &c., see note to next following clause.

Eleventh. Streets—Regulating Use of—Riding or Driving on—Abuse of Animals—Regulating Use of Animals and Vehicles.—To exercise control over the streets, sidewalks, alleys, landings, public grounds and highways of the city; to establish, open, alter, widen, extend, vacate, grade, pave, repave, block, reblock, sprinkle or otherwise improve and keep in repair the same; to establish the grade and thereafter change and reestablish the grade of the same; to put drains and sewers in the same, and regulate or prohibit the building of vaults or areaways under the sidewalk; and permit the use of space under sidewalks, streets and highways under such conditions as they may deem best; to regulate the use of public streets, alleys and highways of the city for telegraph, telephone, electric light, electric power and other pole lines above the surface, and to compel all lines and wires of every character within the city to be kept under ground, and to regulate the use of streets, highways and alleys for conduits, subways, mains, pipes and all structures beneath the surface thereof, and to regulate and control for any and every purpose the use of the streets, highways, alleys, sidewalks, public highways and the grounds of the city; to prohibit racing or fast or immoderate riding or driving of every kind of animal, vehicle or machine on the streets, highways, public thoroughfares and grounds of the city, and to au-

thorize any person to stop any such person immoderately riding or driving as aforesaid;

To prohibit and punish the abuse of animals, to compel persons to fasten their animals while standing in the streets or in any particular street or streets, and to prevent the hitching of any animal on any particular street or streets; to prescribe the manner and limit the time of standing animals and vehicles attached to animals in any street or streets, and to forbid large or heavily loaded vehicles to pass along any particular street or streets of any kind or class of public thoroughfare within the city;

To make all needful regulations to keep and maintain the public streets, alleys, sidewalks and public places in a clean, open and safe condition for public use; to prescribe and regulate the width of the tires on and to regulate and limit the weight to be carried by any and all vehicles used on the public streets and thoroughfares of the city; and to prohibit the building and use of barbed wire fences within the city limits;

To provide for the erection, establishment and maintenance of works and plants for paving, repairing or maintaining the streets, alleys and highways, or parts thereof, of the city, and to provide all necessary machinery and appliances therefor.

Street How Established.—A street may be acquired over property by (1) a grant or deed; (2) a dedication by plat or deed; (3) by acts in pais which in law amount to a dedication. (*Railway vs. Railway*, 190 Mo., 246, l. c. 253 and cases there cited.) (4) by being laid out as such by the constituted authorities in accordance with some law conferring the authority; (5) by public user for such length of time as raises the presumption of adoption as a highway. (*Beaudean vs. City of Cape Girardeau*, 71 Mo., 392, l. c. 396.)

A written grant by the owner and acceptance and actual occupation by the public authorities constitutes a dedication by grant. If original grant is lost contents may be shown by parol. (*Perkins vs. Fielding*, 119 Mo., 149, l. c. 162.)

As to effect of conditions or covenants in grant see vacation of streets this note, post.

When owner of land describes in conveyance a parcel granted as abutting upon a street or alley when there is no such street or alley but strip

of grantors land answering to it is left abutting tract conveyed there arises implied covenant that a street shall remain open for public service. (*Field vs. Mark*, 125 Mo., 502, l. c. 515 and cases there cited.)

Sale of lots by reference to plat constitutes good dedication even if there had been incomplete dedication by plat. (*Railway vs. Baker*, 183 Mo., 312, l. c. 322 and cases there cited.)

For statutory provisions in regard to plats see R. S. 1899, Chap. 142. R. S. 1909, Chap. 97.

It is not necessary to dedication that statutory course be pursued. (*Rose vs. St. Charles*, 49 Mo., 509; *Naylor vs. City of Harrisonville*, 207 Mo., 341; *McGinnis vs. St. Louis*, 157 Mo., 191, l. c. 197.)

A common law dedication is a continuous, irrevocable offer to dedicate which the dedicator cannot retract but which does not become a street until the properly constituted authorities do some act showing acceptance thereof. (*Downend vs. Kansas City*, 156 Mo., 60, l. c. 68; *Railroad vs. Baker*, 183 Mo., 312, l. c. 322.)

When proprietors of town property lay it out into lots with streets and avenues running through it and sell their lots with reference to such plats such conduct on their part will be a dedication of the streets and alleys to the public and they cannot afterward resume their control over them. (City of Hannibal vs. Draper, 15 Mo., 634; s. c. 36 Mo., 332; Thurston vs. St. Joseph, 51 Mo., 510; Ry. Co. vs. Gordon, 157 Mo., 71; Naylor vs. City of Harrisonville, 207 Mo., 341.)

Publishing a plat, though it is not filed, is evidence of a dedication. (McGinnis vs. St. Louis, 157 Mo., 191, l. c. 196.)

There can be no dedication of land to public use by person who does not own it. (Milling Co. vs. Riley, 133 Mo., 574.)

But one by describing property bought by him according to plat adopts plat and with it dedication of street that appears on plat and thereby makes complete imperfect statutory dedication. (Longworth vs. Sedevic, 165 Mo., 221.)

Husband cannot dedicate wife's land to public use unless she joins in conveyance. (City of Marshall vs. Anderson, 78 Mo., 85; Spurlock vs. Dornan, 182 Mo., 242.)

Where street is established by record, record of establishment is best evidence. (Beaudean vs. City of Cape Girardeau, 71 Mo., 392.)

Where plat is lost or destroyed contents may be shown. (Price vs. Town of Breckenridge, 92 Mo., 378; Perkins vs. Fielding, 119 Mo., 149.)

Private property condemned or dedicated for one public use cannot be appropriated to another and different use, (Price vs. Thompson, 48 Mo., 361; Sugar Refining Co. vs. Elevator Co., 82 Mo., 121 and cases there cited on page 127, s. c. 101 Mo., 192; Board of Regents vs. Painter, 102 Mo., 464.)

Private property can be condemned only for public use. City has no right to establish street at expense of property owners in district for use of private individual or a number of individuals. What is public use. (Kansas City vs. Hyde, 196 Mo., 498. Deschner vs. Ry. Co., 200 Mo., 310, l. c. 330; Riggs vs. Met. St. Ry. Co., 216 Mo. 304, l. c. 318.)

A dedication by acts in pais may be perfectly valid although city has not

been in possession and enjoyment for a period of time necessary to constitute title by limitation. The two legal propositions depend upon totally different principles. (Railway vs. Railway, 190 Mo., 246, l. c. 255.)

When matter in pais is relied upon to establish voluntary dedication evidence should leave no doubt that owner fully intended to consent to dedication and must furthermore show an acceptance by the public. (Rosenberger vs. Miller, 61 Mo. App., 422.)

No formal acceptance by corporate officials is necessary. It may be sufficiently indicated by showing that street was opened, accepted and continuously used by the public as a common thoroughfare. (Meiners vs. St. Louis, 130 Mo., 274; Railway vs. Baker, 183 Mo., 312, l. c. 322 and cases there cited.)

Ten years adverse possession by public bars recovery. (Price vs. Breckenridge, 92 Mo., 378; Stephens vs. Murray, 132 Mo., 468.)

To establish existence of street by user without regard to intention of dedication by owner, user must be adverse and not permissive only and must continue for length of time necessary to bar action for the recovery of possession of real estate. (Rosenberger vs. Miller, 61 Mo. App., 422; Field vs. Mark, 125 Mo., 502.) But dedication by acts in pais need not necessarily be of the whole right to the property. (Ry. vs. Ry., 190 Mo., 246.)

For charter provisions in regard to plats see Art. X, Sec. 6 and note.

Vacation of Streets.—Charter confers power upon council to vacate streets and alleys. (Article IX.) It is for council and not courts to say when power shall be exercised. Though city has right to vacate streets when and where its legislative body shall deem best the power must be exercised subject to the constitutional provision that private property shall not be taken or damaged for public use without just compensation and city may be liable for damages resulting to abutting property owners. (Heinrich vs. St. Louis, 125 Mo., 424, l. c. 427; Christian vs. St. Louis, 127 Mo., 109; Knapp, Stout & Co. vs. St. Louis, 156 Mo., 343; Kansas City vs. Hyde, 196 Mo., 498.)

Since there is adequate remedy at law for damages city cannot be enjoined from vacating street. (*Christian vs. St. Louis*, 127 Mo., 109.)

Owner of abutting lot may enjoin the placing of obstructions in a street or alley not properly vacated if he will suffer damage different in kind from that of general public, but one whose lot does not abut upon such street cannot maintain injunction. (*Realty & Investment Co. vs. Deere & Co.*, 208 Mo., 66.)

Ordinances declaring street or alley vacated is not sufficient. Abutting owners have property rights in streets and alleys which cannot be taken from them by mere passage of ordinance declaring it vacant.

If street or alley is vacated and public continue to use it for ten years with knowledge and consent of city and abutting owners, it is again constituted public street or alley. (*Mitchell vs. Ry.*, 116 Mo. App., 81, 1. c. 88.)

City cannot extinguish rights of public by conveyance to an individual of part or all of a street as private property. (*St. Louis vs. Mo. Pacific Ry. Co.*, 114 Mo., 13, 1. c. 24.)

City is not estopped from asserting claim under dedication by including dedicated land in ordinance and condemnation proceedings. (*Moses vs. Dock Co.*, 84 Mo., 242, 1. c. 246.)

Statute of limitation does not run against city unless adverse possession began prior to 1865. (*Williams vs. St. Louis*, 120 Mo., 403; *Wright vs. City of Doniphan*, 169 Mo., 601; *State ex rel. vs. Jackson*, 207 Mo., 85.)

Failure to grade or improve street does not affect public right thereto. (*St. Louis vs. Mo. Pacific Ry. Co.*, 114 Mo., 13, 1. c. 24.)

When dedication by deed or other writing shows intention to convey unlimited fee for particular purposes title does not revert on cessation or diversion of use but equity may compel specific execution of trust. (*Hand vs. St. Louis*, 158 Mo., 204; *Goode vs. St. Louis*, 113 Mo., 257.)

Land deeded to city on condition reverts to grantor on failure to comply with such condition. (*Clark vs. Brookfield*, 81 Mo., 503; *Baker vs. St. Louis*, 75 Mo., 671.)

As to whether provision in grant

is a condition or a covenant and whether an action to declare a forfeiture is necessary, see *St. Louis vs. Wiggins Ferry Co.*, 88 Mo., 615; *Studdard vs. Wells*, 120 Mo., 25; *Railway Co. vs. Frowein*, 163 Mo. 1.

Rights and Obligations of Abutting Property Owners.—The owner of premises abutting on a public street is presumptively the owner of the fee to the center thereof subject to the easement to which the land is devoted. This is true although one abutting owner dedicate the entire street by plat. When street is vacated title vests in persons owning the property on each side thereof in equal proportions. (*Thomas vs. Hunt*, 134 Mo., 392; *Mitchell vs. R. R.* 116 Mo. App., 81 1. c. 88.)

Abutting owner is entitled to get out of or take from the street whatever he can so long as he does no injury to the way. (*Gamble vs. Pettijohn*, 116 Mo. 375.)

Any private person who takes away earth from highway or plows it or removes from it trees or herbage not amounting to nuisance or places anything upon it or erects any structure overhanging it commits a trespass on the abutting owner. (*Gamble vs. Pettijohn*, 116 Mo., 375; see distinction *Grover vs. Cornet*, 135 Mo., 21; *Graden vs. Parkville*, 114 Mo. App., 527; *Betz vs. Home Tel. Co.*, 121 Mo. App., 473; *Cartwright vs. Telephone Co.*, 205 Mo., 126.)

Every owner of a lot abutting on a public street has rights which are as much property as the lot itself. Of these may be named easement for free admission of light and pure air and right of ingress and egress to and from his property. (*Gaus & Sons Mfg. Co. vs. Ry.*, 113 Mo., 308; *Sherlock vs. Ry. Co.*, 142 Mo., 172.)

This right does not depend upon whether fee in street is located in municipality or abutting owner. Right flows from the fact that lot abuts on a public highway. (*DeGeofroy vs. Merchants Bridge & Terminal Co.*, 179 Mo., 698, 1. c. 706.)

Adjoining owner may recover damages occasioned by bridges and viaducts in street. Measure of damages. (*Wolters vs. St. Louis*, 132 Mo., 1; *Spencer vs. Ry.*, 120 Mo., 154.)

City is liable for obstruction in street which prevents ingress and

egress from street to abuttor's property. (*Piper vs. City of Booneville*, 32 Mo. App., 138.) But damage to property owner must be different in kind not only in degree. (*Rude vs. St. Louis*, 93 Mo., 408; *Realty Co. vs. Deere & Co.*, 208 Mo., 66; *Baker vs. McDaniel*, 178 Mo., 447.) Close proximity to portion of street obstructed. (*Milling Co. vs. Riley*, 133 Mo., 574, l. c. 586; *Heer Dry Goods Co. vs. Ry. Co.*, 41 Mo. App., 63.)

Rule as to Alley.—(*Dries vs. St. Joseph*, 98 Mo. App., 611.)

Changing Grade of Streets.—The grade of streets may be changed and damages to private property arising therefrom may be determined in a special proceeding for that purpose. (Art. 7, and note.)

When damages are not ascertained in this manner an action will lie against the city. (*Gardner vs. St. Joseph*, 96 Mo. App., 657; *Hickman vs. City of Kansas*, 120 Mo., 110; *Fuess vs. Kansas City*, 191 Mo., 692; *Investment Co. vs. St. Joseph*, 191 Mo., 459.)

Property owner not entitled to have damages ascertained before work is begun. (*Clemens vs. Insurance Co.*, 184 Mo., 46.)

Change must be material. (*Waldron vs. Kansas City*, 69 Mo. App., 50.)

Grade may be changed whenever it answers best for public purpose. City does not exhaust power in acting once. (*South Highland Land & Impr. Co. vs. Kansas City*, 100 Mo. App., 518.)

Removal of shade trees in street. (*Colston vs. St. Joseph*, 106 Mo. App., 714; *Scott vs. City of Marshall*, 110 Mo. App., 178.)

City is also liable for negligence in the performance of the work of changing the grade of streets. (*Werth vs. City of Springfield*, 78 Mo., 107.)

And constructing sewer. (*Frick vs. Kansas City*, 117 Mo. App., 488.)

Where there was no ordinance authorizing improvement which caused overflow and consequent damage to plaintiff, city is not liable. (*Koeppen vs. Sedalia*, 89 Mo. App., 648.)

City not liable for damages from change in grade authorized by committee of council but not by ordinance. (*Thomson vs. City of Booneville*, 61 Mo. 282. But see *Donohoe vs. Kansas City*, 136 Mo. 657.)

Lot must abut on part of street graded. (*Gardner vs. St. Joseph*, 96 Mo. App., 657; *Burde vs. St. Joseph*, 130 Mo. App., 453; but see *Heer Dry Goods Co. vs. Ry. Co.*, 41 Mo. App., 63; *Milling Co. vs. Riley*, 133 Mo., 574.)

Different rule as to alley in same block. (*Dries vs. St. Joseph*, 98 Mo. App., 611.)

City not liable for injury caused to building by excavation of contractor in alley. Independent contractor discussed. (*McGrath vs. St. Louis*, 215 Mo., 191.) See also surface water post.

Measure of damages for change of grade. (*Tegler et ux vs. Kansas City*, 95 App., 162; *Robinson vs. St. Joseph*, 97 Mo. App., 503; *Farrar vs. Midland Electric Ry. Co.*, 101 App., 140; *Fuess vs. K. C.* 191, Mo., 692.)

What Use Abuttor May Make of Street.—City has authority to grant license to place obstructions in street where purpose is to serve public want such as car tracks. This is property right on street and cannot be revoked without compensation. License to make purely personal use of part of street confers no property right in street itself and may be revoked. (*South Highland Land & Impr. Co. vs. Kansas City*, 100 Mo. App., 518.)

Space Under Sidewalks.—The abuttor may build as of right underground house vaults in streets subject to paramount right of public for street uses proper and subject also to reasonable legislative municipal and police regulations as to location, mode of construction and use of such vaults. (*Gordon vs. Peltzer*, 56 Mo. App., 599; *Fehlauer vs. St. Louis*, 178 Mo., 635, l. c. 647.)

An excavation which extended across the sidewalk from the inner to within eighteen to twenty-four inches of the outer edge of it and was directly in the path of travel so that a pedestrian was compelled to step on the door and over the area or turn out of his path and pass around is in effect an appropriation of the entire sidewalk of the width of the door and is inconsistent with the paramount right of the public. (*City of Memphis vs. Miller*, 78 Mo. App., 67.)

Stone Wall in Street.—*South Highland Land & Impr. Co. vs. Kansas City*, 100 Mo. App., 518.)

Wooden Awnings.—(Brown vs. Town of Carrollton, 122 Mo. App., 276.)

Signs.—(Loth vs. Columbia Theater Co., 197 Mo., 328; St. Louis vs. Theater Co., 202 Mo., 690.)

Deposit of Goods, Delivery, Etc.—Abuttor has right to make reasonable use of streets for deposit of goods, loading and unloading, delivery of fuel, etc., though not directly authorized by ordinance but has no right to make permanent use of streets for storing property or to make such temporary use as will unreasonably interfere with travel. (Gerdes vs. Iron Foundry Co., 124 Mo., 347; Corby vs. Ry., 150 Mo., 457, 1. c. 468.)

So material used in construction of buildings. (Heselbach vs. St. Louis, 179 Mo., 505; Christman vs. Melerhofer, 116 Mo. App., 46.)

Display of merchandise. (Straub vs. St. Louis, 175 Mo., 413.)

City has right to make reasonable use of street and sidewalk for materials and tools used in construction of sewer but is liable for negligence of contractor in piling earth in street and diverting surface water. (Frick vs. Kansas City, 117 Mo. App., 488.) **Paving material.** (Westliche Post vs. Allen, 26 Mo. App., 181.)

See right of city to control streets, post this note.

The Rights of Abutting Owners as Affected by Steam Roads is fully discussed and the authorities collated, in DeGeofroy vs. Merch. Bridge Co., 179 Mo., 698, and it is held that no action lies where the road is built on the grade (only on the doctrine of stare decisis,) but that an action lies where the road is not built on the grade or street level. The court said the tendency is toward more liberal relief against railroads in favor of property holders.

Liability of Abuttor.—The abutting owner as such owes no duty to maintain street or sidewalk in front of premises and is not responsible for any defects therein which are not caused by his own wrongful act. He may recover for an injury arising from defect in front of his own property. Duty to remove snow and ice from the sidewalk incidentally discussed. (Ford vs. Kansas City, 181 Mo., 137, 1. c. 147; Beck vs. Brewing Co., 167 Mo., 195; Lucas vs. Ry. Co., 174 Mo., 270.)

Abutting owner may, however, become liable and jointly liable with city for unsafe condition of sidewalk. Liability does not arise from fact that he is owner of property abutting sidewalk but from the fact that he is instrumental in causing the condition either by his willful act or negligent omission. Liability growing out of extraordinary use of sidewalk for private convenience. (Perrigo vs. St. Louis, 185 Mo., 274, 1. c. 286, 287 and cases there cited).

Remedies of Abutting Owner.—Ejectment. (Thomas vs. Hunt, 134 Mo., 392.) Trespass. (Gamble vs. Pettijohn, 116 Mo., 375.) Injunction. (Christian vs. St. Louis, 127 Mo., 109; Realty & Investment Co. vs. Deere & Co., 208 Mo., 66.) Damages. (Frick vs. Kansas City, 117 Mo. App., 488; Fuess vs. Kansas City, 191 Mo., 692.)

Actions for damages or to abate public nuisances can be maintained by only those who suffer damage different in kind and not only in degree from others. (Rude vs. St. Louis, 93 Mo., 408; Baker vs. McDaniel, 178 Mo., 447; Realty Co. vs. Deere Plow Co., 208 Mo., 66.)

Power over streets is in nature of trust and where city permits purpresture in street it is guilty of breach of trust and state has visitatorial power to proceed in court to correct abuse by action through prosecuting attorney or attorney general. (State vs. Franklin, 133 Mo. App. 486; State ex rel. vs. Vandalia, 119 Mo. App., 406.)

Rights of Public in Street.—Pedestrians have undoubted right to use street for all ordinary purposes and to walk across it if so inclined. (Goff vs. Transit Co., 199 Mo., 694, 1. c. 705.)

Streets are for use of all classes of people and no individual or class of individuals possesses any superior right of way over that which others may exercise. (Cole vs. Met. Street Ry. Co., 121 Mo. App., 605, 1. c. 609.)

But it is also true that in order to transact business and to build houses, to reconstruct streets, to build public improvements or public utilities in street, sidewalks must of necessity, at times, be partly occupied by goods and materials to be used for such purposes. What is reasonable use must be determined by circumstances of each case. (Heselbach vs. St. Louis,

179 Mo., 505, l. c. 523; Christman vs. Meierhoffer, 116 Mo. App., 46). Delivery of fuel, loading and unloading goods. (Gerdes vs. Iron Foundry Co., 124 Mo., 347).

Persons are not privileged to haul extraordinarily heavy loads over streets without regard to detriment to manholes of private corporation lawfully placed in street. (Missouri Electric Co. vs. Weber, 102 Mo. App., 95).

City has right to temporarily close street for repairs. (Haller vs. St. Louis, 176 Mo., 606).

Safe Condition of Streets—It is the duty of city to keep its streets in a reasonably safe condition for travel by night as well as by day. (Brennan vs. St. Louis, 92 Mo., 482; Smith vs. St. Joseph, 45 Mo., 449; Culverson vs. Maryville, 67 Mo. App., 343; Vogelgesang vs. St. Louis, 139 Mo., 127; Maus vs. City of Springfield, 101 Mo., 613).

City is not insurer of safety of those using streets. (Burnes vs. St. Joseph, 91 Mo. App., 489).

Instruction that city was bound to keep its streets in safe condition held erroneous, reasonably safe being the measure of responsibility. (Smith vs. Brunswick, 61 Mo. App., 578).

City cannot avoid responsibility by arrangements with others. (Blake vs. St. Louis, 40 Mo., 569; Wiggin vs. St. Louis, 135 Mo., 558; Benton vs. St. Louis, 217 Mo., 687).

City cannot shift burden for defects in streets or walks upon property holder and is liable to tenant for injuries resulting from defect in sidewalk in front of property occupied by tenant. (Ford vs. Kansas City, 181 Mo., 137).

But a city is not necessarily required to open or put all its streets in a condition for public travel. (Walker vs. Kansas City, 99 Mo., 647; Hunter vs. Weston, 111 Mo., 176).

Nor is it liable for the condition of a street which exists merely on paper. (Moore vs. Cape Girardeau, 103 Mo., 470).

City not required to furnish safe means of reaching street from private property. (Calhoun vs. Milan, 64 Mo. App., 398).

City not required to keep portion of street outside of city in repair.

(Stealey vs. Kansas City, 179 Mo., 400).

City is not always required to keep entire width of street in safe condition for travel. (Ruppenthal vs. St. Louis, 190 Mo., 213, and cases there cited distinguishing Wiggin vs. St. Louis, 135 Mo., 558).

Street need not be of same construction throughout its course. (Electric Co. vs. Weber, 102 Mo. App., 95).

It is the duty of city to keep entire sidewalk in reasonably safe condition for travel. (Roe vs. City of Kansas, 100 Mo., 190).

Approval of plat by council does not cast upon city duty of keeping streets shown on plat in repair. (Downend vs. Kansas City, 156 Mo., 60).

Merely a user of ground by public does not impose on city duty to keep same in safe condition. (Garnett vs. City of Slater, 56 Mo. App., 207).

But if city treats land as a street it is liable for failure to keep same in repair. (Connor vs. Nevada, 188 Mo., 148; Golden vs. Clinton, 51 Mo. App., 100; Hill vs. Sedalia, 64 Mo. App., 494; Stealey vs. Kansas City, 179 Mo., 400; O'Malley vs. City of Lexington, 99 Mo. App., 695).

Declaring by ordinance that land embraced within certain lines is public street; obtaining title to or easement for that purpose; passing ordinances providing for improvement of street are governmental acts; undertaking work of reconstructing street as required by ordinance is ministerial act; city not bound to improve whole of street. (Ely vs. St. Louis, 181 Mo., 723; Ruppenthal vs. St. Louis, 190 Mo., 213; Dinsmore vs. St. Louis, 192 Mo., 255; see distinction Smith vs. Hayti, 130 Mo. App., 321).

City not liable for defect in plan of public work but only for negligent execution of plan. (Foster vs. St. Louis, 71 Mo., 157; Haxton vs. Kansas City, 190 Mo., 53; but see McGrath vs. St. Louis, 215 Mo., 191).

Liable for obstruction in street or sidewalk. (Straub vs. St. Louis, 175 Mo., 413; Noble vs. Kansas City, 95 Mo. App., 167; Fischer vs. St. Louis, 189 Mo., 567; Goins vs. City of Moberly, 127 Mo., 117). Hydrant in street. (Burnes vs. St. Joseph, 91 Mo. App., 489).

Defective sidewalk. (Bradley vs. City of Spickardsville, 90 Mo. App., 416; Deland vs. City of Cameron, 112 Mo. App., 704; Smoot vs. Kansas City, 194 Mo., 513). Doors and lids over opening in sidewalk. (Fehlhauer vs. St. Louis, 178 Mo., 635; Drake vs. Kansas City, 190 Mo., 370; City of Memphis vs. Miller, 78 Mo. App. 67.) Meter box. (Carvin vs. St. Louis, 151 Mo., 334).

Evidence of repair subsequent to injury inadmissible. (Woods vs. Poplar Bluff, St. L. Ct. of App., March 9, 1909, 116 S. W., 1109).

Liable for failure to keep streets in reasonably safe condition for travel, including space between sidewalk and curbing. (Coffey vs. Carthage, 200 Mo., 616, and cases there cited; Reed vs. City of Mexico, 101 Mo. App., 155; Buckley vs. Kansas City, 95 Mo. App., 188; Jerowitz vs. Kansas City, 104 Mo. App., 202).

Trees and like obstructions may be placed in space between sidewalk and curbing. (Fochler vs. Kansas City, 34 Mo. App., 464).

Unsafe projection over street (Loth vs. Columbia Theater Co., 197 Mo., 328 and cases there cited.)

Liable for unguarded danger on border of streets. (Halpin vs. City of Kansas, 76 Mo. 335.) Liable for stone from wall of burned building falling on person. (Franke vs. St. Louis, 110 Mo., 516.) but not for wall falling on person not using street. (Kiley vs. City of Kansas, 87 Mo., 103.) Liable to woman falling into excavation while avoiding kick of a mule. (Bassett vs. St. Joseph, 53 Mo. 290.)

Accidental cause contributing. (Brennan vs. St. Louis, 92 Mo. 482; Hull vs. City of Kansas, 54 Mo., 598; Falrgrieve vs. Moberly, 39 Mo. App., 31.)

Liable not only to persons using street for passage but liable to children playing in street. (Donoho vs. Iron Works, 75 Mo., 401; Straub vs. St. Louis, 175 Mo., 413.)

Failure to provide lights and barriers. (Stout vs. Columbia, 118 Mo. App., 439; Russell vs. Columbia, 74 Mo. 480; Christman vs. Meierhoffer, 116 Mo. App., 46; Ballentine vs. Kansas City, 126 Mo. App., 130.)

Snow and ice in streets. (Heether vs. Huntsville, 121 Mo. App. 495; Reno vs. St. Joseph, 169 Mo., 642 and

cases there cited; Quinlan vs. Kansas City, 104 Mo. App., 616; Strange vs. St. Joseph, 112 Mo. App., 629; Peters vs. St. Joseph, 117 Mo. App. 499; Reedy vs. Brewing Association, 161 Mo., 523; Vonkey vs. St. Louis Sup. Ct., Mar. 31, 1909. 117 S. W. 733.)

Liable for failure to keep bridge or viaduct in safe condition. (Loewer vs. City of Sedalla, 77 Mo. 431; Pierce vs. Town of Luiesville, 25 Mo. App. 317.) Or approach thereto. (Churchman vs. Kansas City, 44 Mo. App. 665.)

City not liable for failure of railing to withstand negligent use. (Sindlinger vs. Town of Kansas, 126 Mo. 315.)

Failure to erect side railings to bridge not negligence per se. (Staples vs. Town of Canton, 69 Mo. 592.)

City liable for negligence of employees engaged in cleaning streets. (Young vs. R. R., 126 Mo. App. 1.)

And for assault by employe so engaged. (Barree vs. Cape Girardeau, 197 Mo. 382.)

City not liable for damages resulting from defect or obstruction in street not created by city unless city has knowledge or notice of it or it existed long enough for knowledge to be imputed to city. (Drake vs. Kansas City, 190 Mo. 370; Fehlhauer vs. St. Louis, 178 Mo. 635; Gerber vs. Kansas City, 105 Mo. App. 191; Doherty vs. Kansas City, 105 Mo. App. 173; Buckley vs. Kansas City, 95 Mo. App. 188; Clark vs. City of Brookfield, 97 Mo. App. 16.)

Notice to policeman is notice to city. (Carrington vs. St. Louis, 89 Mo. 208.)

City is not liable for latent defect of which it had no knowledge. (Carvin vs. St. Louis, 151 Mo. 334.)

Liability of city to person having knowledge of defect or obstruction in street; contributory negligence. (Wheat vs. St. Louis, 179 Mo. 572; Fischer vs. St. Louis, 189 Mo. 567; Coffey vs. Carthage, 186 Mo. 573; Ashby vs. Gravel Road Co., 99 Mo. App. 178; Burnes vs. St. Joseph, 91 Mo. App. 489; Holding vs. St. Joseph, 92 Mo. App. 143.)

Fact that injured person had been drinking. (Stout vs. Columbia, 118 Mo. App. 439 and cases there cited.)

Right of City to Control Streets.—Legislature has paramount authority over all public highways no matter how acquired. This authority is to a

large extent delegated to the city over the streets therein. (R. S. 1899, Sec. 6408; R. S. 1909, Sec. 9752, p. 83, this volume.) The power to regulate the use is not limited to a mere right of way but it extends to all beneficial uses which the public good and convenience may from time to time require as for laying gas, water and sewer pipes and the like. New uses are constantly arising. All these and many others may be made of the streets without consent of the lot owners. (Ferrenbach vs Turner, 86 Mo. 416, l. c. 419 and 420.)

The city is given power to regulate use of streets. The word regulate is one of broad import. If city gives right to use of streets or public grounds it simply regulates the use when it prescribes the terms and conditions upon which they shall be used. (St. Louis vs Western Union Telegraph Co., 149 U. S. l. c. 469; Sluder vs Transit Co., 189 Mo. 107, l. c. 129.)

Street includes roadway, gutters and sidewalks unless context shows term used in a more restricted sense. (Knapp Stout & Co. vs St. Louis Transfer Co., 126 Mo. 26.)

Legislative or municipal control is not absolutely unlimited. It must be exercised for public welfare and to promote enjoyment of easements that the populace have in the street, hence private structures which are inconsistent with the primary use of street cannot be licensed and will constitute a nuisance even if municipality undertakes to license them. (Morie vs St. Louis Transit Co. 116 Mo. App 12, l. c. 23.)

City not liable for injury to gas pipes, conduits or railroad tracks, in constructing sewer. (Sedalia Gaslight Co. vs Mercer, 48 Mo. App. 644) or grading street. (National Water Works Co. vs Kansas City, 20 Mo. App. 237; same vs same, 28 Fed. Rep. 922.)

And a provision in the ordinance or contract that the contractor shall be responsible for such injuries, is void. (Sedalia Gaslight Co. vs Mercer, 48 Mo. App. 644; Railroad vs Morley, 45 Mo. App. 304.)

State has visitatorial power to interfere when city permits improper use or obstruction of street. The attorney general of the state or the prosecuting attorney of the county in which nuisance exists, may proceed in

equity for its abatement. (State ex rel vs Vandalia, 119 Mo. App. 406; State vs Franklin, 133 Mo. App., 486.)

City has no power to authorize such use of street as will destroy its use as a public thoroughfare. (Knapp, Stout & Co. vs Transfer Co., 126 Mo. 26, l. c. 36, and cases there cited; Sluder vs Transit Co., 189 Mo. 107, l. c. 130.)

City cannot authorize use of public streets for purely private purposes. (Brown vs Railway Co., 137 Mo. 529.)

The city has right to use either surface or underlying portion of street for any lawful purpose for which a street may be used. (Westliche Post Assn. vs Allen, 26 Mo. App. 181.)

City may authorize construction of underground subway for public use and may exact compensation for such use and may authorize one subway company to charge another for the use of any part of its way or facilities. (State ex rel. vs. National Subway Co., 145 Mo. 551 overruling State ex rel. vs Murphy, 134 Mo. 548.)

City cannot exact compensation from subway company for time it was not permitted to use streets. (National Subway Co. vs St. Louis, 169 Mo. 319.)

Power of city to authorize railroads to use streets. (De Geofroy vs Merchants Bridge & Terminal Co., 179 Mo. 698 and cases there cited; Foudry vs Ry., 130 Mo. App. 104; Seibert vs Ry. Co., 188 Mo. 657; Swinhart vs Ry. Co., 207 Mo. 423.)

City cannot lease space in a street in front of business houses for hucksters' stands. (Schopp vs St. Louis, 117 Mo. 131.)

City cannot authorize construction of scales in street. (State ex rel vs Vandalia, 119 Mo. App. 406; Coal Co. vs Coal Co., 62 Mo. App. 93.)

City cannot authorize street vendors to erect stand in street. (Galloso vs City of Sikeston, 124 Mo. App. 380.)

City has no power to subject street to use of a private person for advertising business of other private persons by placing boxes on street for reception of waste paper with advertisement posted on such boxes. (State ex rel. vs St. Louis, 161 Mo. 371.)

Illuminated advertising signs. (Loth vs Columbia Theater Co., 197 Mo. 328.)

Ordinance providing that houses fronting on a certain street shall be used for residences only is not proper

exercise of municipality's power to regulate the use of streets. (*St. Louis vs Dorr*, 145 Mo. 466.)

City may fill up wells situated in the public streets. (*Ferrenbach vs Turner*, 86 Mo. 416.)

Mining shaft in street is nuisance although street had not been improved and used (*Friend vs Porter*, 50 Mo. App. 89.)

See rights of abutting property owners *supra*, this note.

Jurisdiction over streets must be exercised by ordinance. (*Stewart vs Clinton*, 79 Mo. 603; *Gardner vs St. Joseph*, 96 Mo. App. 657; *Graden vs Parkville*, 114 Mo. App. 527.)

Power of city to establish boulevard and widen or extend existing street. (*Kansas City vs Smart*, 128 Mo. 272.)

City may maintain ejectionment for land dedicated for street. (*California vs Howard*, 78 Mo. 88; *Union Elevator Co. vs Ry. Co.*, 135 Mo. 353.)

Telephone poles can be ordered relocated by city only when they incommode the public. (*Hannibal vs Telephone Co.*, 31 App. 23.)

Telegraph and telephone companies organized under laws of this state may set their poles along the streets, subject to regulation by ordinance as to location and kind of poles and height of wires. (*State ex rel. vs Flad*, 23 Mo. App. 185; *Hisey vs Mexico*, 61 Mo. App. 248; *R. S. 1899*, Sec. 1251, *Amended Laws 1903*, p. 138; *R. S. 1909*, Sec. 3326; *R. S. 1899*, Sec. 1260, *R. S. 1909*, Sec. 3335.)

Board of public works cannot impose conditions other than those imposed by law. (*State ex rel. vs Flad*, 23 Mo. App. 185.)

And property owner cannot enjoin erection of same as damaging his property. (*Julia Building Association vs Telephone Co.*, 88 Mo. 258, s. c. 13 Mo. App. 477; *Gay vs Mutual Union Telegraph Co.*, 12 Mo. App. 485; *Forsythe vs B. & O. Telegraph Co.*, 12 Mo. App. 494; *Schopp vs St. Louis*, 117 Mo. 131.)

City has a right to require telephone company owning a franchise from it to apply to the designated city

officer for permission to replace an existing pole with a new one and the company's servants may be punished for doing so without such permission. (*City of Carthage vs Garner*, 209 Mo. 688.)

Right to lay conduits. (*Missouri-Edison Electric Co. vs Weber*, 102 Mo. App. 95.)

Right to impose a money charge as a condition to use streets. (*City of Lancaster vs Briggs*, 118 Mo. App. 570.)

Use of street cannot interfere with abutting property owners ingress and egress. (*DeGeofroy vs Merchants Bridge & Terminal Ry. Co.*, 179 Mo. 698; *Foudry vs Ry.*, 130 Mo. App. 104.)

Telephone company liable for damaging trees. (*Betz vs Telephone Co.*, 121 Mo. App. 473; *Cartwright vs Tel. Co.*, 205 Mo. 126.)

For Power to Regulate Rates.—See laws of 1907, p. 119; *R. S. 1909*, Secs. 9568, 9569, 9570. See Cl. 28.

Speed of Automobiles.—State regulation. Laws 1907, p. 73; *R. S. 1909*, Secs. 8502 to 8523. City regulations cannot require more than state law. (*St. Louis vs Klausmeier*, 212 Mo., 724. See introductory note.)

Cases state law. (*State vs Swagerty*, 203 Mo. 517; *McFern vs Gardner*, 121 Mo. App. 1.)

Abuse of Animals.—City may prohibit cruelty to animals, although same acts may be misdemeanors under statute. (*St. Louis vs Schoenbush*, 95 Mo. 618.)

What is abuse. (*Marshall vs Bingle*, 36 Mo. App. 122.)

Ordinance fixing load for two horse team and wagon not void for partiality. (*Kansas City vs Sutton*, 52 Mo. App. 398.)

Intent. (*State vs Hackfath*, 20 Mo. App. 614; *State vs Roche*, 37 Mo. App. 480; *State vs Prater*, 130 Mo. App. 348; *State vs Haley*, 52 Mo. App. 520.)

Leaving horse unattended in street. (*Becker vs Schutte*, 85 Mo. App. 57; *Groom vs Kavanagh*, 97 Mo. App. 362.)

See clause 30, this article.

Twelfth. Tracks, Switches, Bridges, Etc., in Streets—Control and Regulation of—Construction of Tunnels—Viaducts—Approaches—Cost of Right of Way—Location of Depot.—To direct and control the laying and construction of steam railroad

tracks, bridges, turnouts and switches in the streets and alleys; and the location of depot grounds within the city; to require that railroad tracks, bridges, turnouts and switches shall be so constructed and reconstructed and laid as to interfere as little as possible with ordinary travel and the use of the streets and alleys, and so as to protect life and property from all danger arising from the operation of trains upon said tracks, and that sufficient space should be left on either side of said tracks for the safe and convenient passage of teams and persons; to require the railroad companies to keep in repair the streets and alleys and highways through which their tracks may run, and to light, patrol and guard the same; to require said railroad companies to construct and keep in repair suitable crossings at the intersection of streets, alleys and highways, ditches, sewers and culverts, and to light and guard the same; to require and compel railroad companies to construct and maintain viaducts or overhead bridges, together with the approaches therefor at such points where the tracks of said railroads cross the public streets or highways of the city and where the construction of such viaducts and bridges is reasonably necessary for the convenience of the public or for the protection of the people using such crossings; to require railroad companies, whose tracks cross the streets, alleys and highways of the city, to build said tracks under said streets, alleys and highways, at said crossings, and to construct tunnels thereunder for the use of said railroads, or viaducts over said railroad tracks for the use of the public, and to maintain the same; to require the railroad companies whose tracks cross the streets, alleys and highways of the city, to pay the damages to abutting property caused by the construction of said viaducts or overhead bridges and approaches thereto; and in cases where it is necessary to procure a right-of-way for the construction of any such viaduct or overhead bridge, or approaches or any part thereof, the cost and expense of such procurement shall be borne by the railroad company or companies whose tracks cross the highways and render necessary the construction of said viaduct or overhead bridge and approaches, and in cases where more than one railroad company's tracks cross a highway within the city, to provide by ordinance the amount or proportionate part of the cost which each of said companies shall pay or contribute toward the cost and expense of construction or maintenance of said viaducts, overhead bridges or approaches, including the matter of rights-of-way for the construction of such viaducts, overhead bridges or approaches, and the damages done to private property by the construction of the same; and when the public safety or convenience so demands, to

designate that the roadway of the street crossed by such railroad tracks shall either be carried under the tracks by means of a tunnel, cut or subway to be constructed and maintained by said railroad company, or over said railroad tracks by means of a viaduct or overhead bridge, as aforesaid; and, in case the streets shall be placed beneath said tracks, to require all the costs and expenses of the same, including maintenance, right-of-way, and damages to private property by the construction of the same, to be paid by the railroad company or companies whose tracks cross said street. And in cases where necessary for the protection of traffic, or for the opening, establishment, grading or change of grade of any street or highway, or for the construction or maintenance of any other public improvement of any character to require any railroad company, at its own expense, to elevate or depress its tracks or any part of the same within the city and to conform the grade of said tracks to the plans of any public improvement authorized by the Common Council.

A railroad cannot be constructed upon or across any street in the city without assent of corporate authorities. (R. S. 1899, Sec. 1035, part 4; R. S. 1909, Sec. 3049.)

Railroad using street without consent of proper authority is trespasser and injunction will lie. Burden is upon railroad to show authority. (Swinhart vs Railroad Co., 207 Mo. 423.)

This consent cannot be granted by mayor, but must be granted by ordinance. (Lockwood vs Railroad, 86 Mo. 122.)

What is sufficient evidence of approval by mayor. (Knight vs Railroad Co. 70 Mo. 231.)

Provision in ordinance granting authority to use street that grant should become void upon removal of machine shops from city, is condition subsequent, can be taken advantage of only by city and may be waived by city. (Knight vs Railroad, 70 Mo. 231.)

Effect of fraud in procuring authority. (Nagle vs Railway, 167 Mo. 89; Kansas City, vs Hyde, 196 Mo. 498; State ex rel. vs Gates, 190 Mo. 540.)

Distinction between railroads operated by steam and street railroads. (State ex rel. vs Corrigan, Street Ry. Co., 85 Mo. 263, l. c. 275.)

A railroad properly constructed pursuant to authority granted by city on established grade of street when prop-

erly operated is not a nuisance and neither the municipality nor the company would be responsible for inconvenience resulting from such construction. (Randle vs Railroad, 65 Mo. 325; Tate vs Railroad, 64 Mo. 149; Nagle vs Railroad, 167 Mo. 89.)

Rule sustained upon doctrine of stare decisis alone. (De Geofroy vs Merchants Bridge & Terminal Co., 179 Mo. 698.)

Such use is not a perversion from original purpose. (Gaus vs Railroad, 113 Mo. 308; Lockwood vs Railroad, 122 Mo. 86; Stephenson vs Railroad, 68 Mo. App. 642.)

Right conferred to lay tracks upon street, is to lay them on grade; and company is liable to adjoining property owner for constructing embankments that change the grade. (Cross vs Railroad, 77 Mo. 318; Taylor vs Cable Co., 38 Mo. App. 668; Martin vs Railroad, 47 Mo. App. 452; De Geofroy vs Bridge & Terminal Co., 179 Mo. 698, and cases cited, l. c. 708.)

Elevated steam railroad is additional servitude. (DeGeofroy vs Merchants Bridge Co., 179 Mo. 698.)

An ordinance purporting to permit steam railroads in a street, sidewalk or alley so narrow, or so operated that the use of the street by the railroads will destroy the use of the street by the public as a highway is void because an appropriation of a street to

inconsistent uses, and as destroying the rights of the abutting property holders, and injunctive relief may be had. (State ex rel, vs Railroad Co., 206 Mo. 251; Lockwood vs Wabash, 122 Mo. 86, and cases cited; Dubach vs Railway, 89 Mo. 483; Morie vs Transit Co., 116 Mo. App. 1. c. 24 et seq. citing numerous authorities; Lackland vs Railroad, 31 Mo. 181; Lumber Co. vs Railroad, 129 Mo. 455. (Sidewalk obstruction—awarding injunction); Corby vs Railroad, 150 Mo. 457 (alley—same) citing authorities. Knapp, Stout & Co., vs Railroad, 126 Mo. 26; Sherlock vs Railroad, 142 Mo. 172.)

Citizens and tax payers may maintain mandamus in name of state to compel Railroad Co. to restore street appropriated to its own use. (State ex rel, vs Railroad, 206 Mo. 251.)

City cannot condemn private property for a street in order afterwards to give it over to a railroad to be used for switches. (Kansas City vs Hyde, 196 Mo. 498.)

Unless it be shown that the use by the steam road will practically destroy the use of a street by the public the ordinance authorizing such use will not be held void, although in the more recent cases the tendency is toward more strictness against the railways. (Morie vs St. Louis Transit Co., 116 Mo. App. 12, l. c. 25, citing authorities, especially Sherlock vs Ry., 142 Mo. 172; and see DeGeofroy vs Merc. Bridge, 179 Mo. 698; St. Louis Transfer Co. vs Merch. Bridge Co., 111 Mo. 666; Brown vs Ry., 137 Mo. 529; Randle vs Ry., 65 Mo. 325; Foudry vs Railroad, 130 Mo. App. 104.)

City may require, and railroad company may place safety gates in street. (Seibert vs Railroad, 188 Mo. 657.)

City cannot authorize a private steam road to use the street for private purposes. (Glaessner vs Anheuser-Busch, 100 Mo. 508; see also Brown vs Ry., 137 Mo. 529, l. c. 537.)

But a switch, part of the road, is not a private use, but a public one. (Knapp, Stout & Co., vs Ry., 126 Mo. 26; Brown vs Railway, 137 Mo. 529; Morie vs St. Louis, 116 Mo. App. 12.)

Switch on private ground is not public. (Richards vs Implement Co., 125 Mo. App. 428.)

Construction under municipal authority of pier for railroad bridge, not a nuisance. (Gates vs Railway, 111 Mo. 28.)

Approaches to bridge. (St. Louis vs Terminal Co., 211 Mo. 364.)

Supports for elevated road. (De Geofroy vs Merchants Bridge & Terminal Co., 179 Mo. 698.)

Damage suffered must be peculiar to complainant and different in kind from rest of community, to entitle him to protection, under the constitution. (Nagle vs Railway Co., 167 Mo. 89; Realty & Investment Co. vs Deere & Co., 208 Mo. 66; Gates vs St. Louis, 111 Mo. 28.)

Whether one whose property does not abut on the portion of the street actually occupied by railroad is entitled to relief, see Heer Dry Goods Co. vs Railway Co., 41 Mo. App. 63; Glasgow vs St. Louis, 107 Mo. 198.

Right of action of person using street for injury caused by buggy wheel catching in switchfrog. (Morie vs Transit Co., 116 Mo. App. 12.)

Thirteenth. Bridges, Sewers, Etc.—Drainage and Plumbing.

—Water Courses.—To establish, erect and keep in repair bridges, culverts, sewers, sewer outlets within or outside the limits of the city, plants for reduction and disposition of sewage and garbage, and to regulate the use of the same; to inspect and regulate house drainage and sewer connections, and plumbing, drainage and sewerage of buildings, and to prescribe the kind and quality of material to be used for such purpose; to establish, alter, deepen and change the channel of water courses and to wall them up and cover them over; and to require houses to be connected with the city sewers.

When city undertakes to build bridge it must erect one reasonably safe for travel. Failure to erect side railings is not negligence per se. (*Staples vs Town of Canton*, 69 Mo. 592.)

Liable for failure to keep bridge or viaduct in safe condition. (*Loewer vs City of Sedalia*, 77 Mo. 431; *Pierce vs Town of Lutesville*, 25 Mo. App. 317.) Or approach thereto. (*Churchman vs Kansas City*, 44 Mo. App. 665.)

City not liable for failure of railing to withstand negligent use. (*Sindlinger vs City of Kansas*, 126 Mo. 315.)

City may contract for construction of bridge or viaduct before acquiring right of way therefor. (*Murray vs Kansas City*, 47 Mo. App. 105.)

Adjoining property owner may recover damages occasioned by bridge or viaduct erected in street. Measure of damages. (*Wolters vs St. Louis*, 132 Mo. 1; *Spencer vs Ry. Co.*, 120 Mo. 154.)

To regulate the use thereof authorizes an ordinance requiring payment of a special tax bill before a lot owner may connect with sewer. (*Hill vs St. Louis*, 159 Mo. 159.)

A city's right to lay sewers necessary for the public health is paramount to a company's right to water pipes laid in pursuance of an ordinance. (*National Waterworks Co. vs Kansas City*, 28 Fed. 921; *New Orleans Gaslight Co. vs Drainage Commissioners*, 197 U. S. 453.)

The construction of sewers is discretionary with city, a failure to build sewer will not, in general, give any right of action to private party. But having entered upon the work it will be held for damages following the careless or unskillful manner of performing the same. (*Woods vs City of Kansas*, 58 Mo. App. 272, 1. c. 278.)

City is liable for injury occasioned by negligence in constructing sewer, even though acting in violation of charter.

Laborers and superintendents of

streets not fellow-servants. (*Donahoe vs Kansas City*, 136 Mo. 657.)

Liable to property owner for negligence of contractor in constructing sewer. (*Fink vs St. Louis*, 71 Mo. 52.)

Throwing water on lot. (*Thurston vs St. Joseph*, 51 Mo. 510; *Frick vs Kansas City*, 117 Mo. App. 488.)

Liable to persons using street for unguarded excavation in street in constructing sewer. (*Welsh vs St. Louis*, 73 Mo. 71.)

Not liable for damages caused by rock thrown from sewer by blast made by contractor. (*Blumb vs Kansas City*, 84 Mo. 112.)

Rule as to independent contractor. (*McGrath vs St. Louis*, 215 Mo. 191.)

Leaving manhole above street level. (*Wheat vs St. Louis*, 179 Mo. 572.)

Surface water. Insufficiency of, or obstruction in sewers and gutters. (*Woods vs Kansas City*, 58 Mo. App. 272; *Carson vs Springfield*, 53 Mo. App. 289; *McInery vs St. Joseph*, 45 Mo. App. 296; *Rychlicki vs St. Louis*, 98 Mo. 497; *Frick vs Kansas City*, 117 Mo. App. 488; *Gulath vs St. Louis*, 179 Mo. 38.)

Running streams. (*Imler vs Springfield*, 55 Mo. 119, 1. c. 126; *Rose vs St. Charles*, 49 Mo. 509; *Young vs Kansas City*, 27 Mo. App. 101; *Barnes vs Hannibal*, 71 Mo. 449; *Edmondson vs City of Moberly*, 98 Mo. 523; *Smith vs City of Sedalia*, 152 Mo. 283; *Martinowsky vs City of Hannibal*, 35 Mo. App. 70.)

Liable for nuisances unnecessarily created by construction of sewer. (*Edmondson vs City of Moberly*, 98 Mo. 523; *Smith vs City of Sedalia*, 152 Mo. 283; *Frick vs Kansas City*, 117 Mo. App. 488; *Scott vs Nevada*, 56 Mo. App. 189; *Martinowsky vs City of Hannibal*, 35 Mo. App. 70.)

Duty of city to keep sewers in repair. (*Gulath vs St. Louis*, 179 Mo. 38; *Woods vs Kansas City*, 58 Mo. App. 272.)

Liability for explosion of gas in sewer. (*Fuchs vs St. Louis*, 167 Mo. 620, overruling s. c., 133 Mo. 168.)

Fourteenth. Penal and Charitable Institutions—Public Buildings and Regulation of—Purchase of Property.—To provide for the erection, establishment, operation, maintenance and discontinuance of such prisons, jails, police stations, work houses, houses

of correction, houses of refuge and all necessary penal and charitable institutions; art galleries, market houses, hospitals, quarantine stations, and all public buildings of every character required by the city, whether herein specifically enumerated or not; and to make all needful regulations for the care and government of the same; to provide for the regulation and management of city markets and market places and market houses, and to fix the rental charges therefor and the amount of licenses to be paid for each and every kind of business carried on therein; to purchase, condemn, rent, lease, or otherwise acquire, within the limits of the city or elsewhere, any real or personal property for any purpose herein enumerated or referred to, and to control, manage, improve, sell, lease or otherwise dispose of the same in such manner and upon such consideration as the Mayor and the Common Council may deem proper for the public welfare, subject to the limitations in this charter elsewhere provided.

Prisons, Jails, Etc.—In establishing regulations for suppression of vice. (State ex rel. vs Gates, 190 Mo. 558; Donohoe vs Kansas City, 136 Mo. 665.) and maintaining city work house. (Ulrich vs St. Louis, 112 Mo. 138), the city acts in its public or governmental functions and is not liable for failure to perform them nor for negligence of its servants in performing them, nor for defects in appliances used in performing them.

Imprisonment in city workhouse is legitimate exercise of police regulations, such as city undoubtedly has power to enact. (Ulrich vs St. Louis, 112 Mo. 138.)

City may, by ordinance, make reasonable rules of discipline for government of inmates of workhouse. A rule requiring prisoners to labor is reasonable, both for discipline and for sanitary purposes. (St. Louis vs Karr, 85 Mo. App. 608, l. c. 613.)

City cannot authorize superintendent of workhouse to refuse credit for any days of service against the time of imprisonment for which offender was convicted. (St. Louis vs Karr, 85 Mo. App. 608, l. c. 614.)

What amount shall be credited upon fine for each day's labor. (In re Joseph Lorkowski, 94 Mo. App. 623.)

Contracting services of prisoners in workhouse to private person, is ultra vires, where neither authorized nor prohibited by charter, but is not ille-

gal. (St. Louis vs Davidson, 102 Mo. 149.)

Section 3603, R. S., 1889; R. S. 1909, Sec. 2499, provides penalty for officer having custody of prisoner committed on criminal process, who shall refuse to give prisoner a copy of process, order or commitment by which prisoner is held or detained within six hours after demand by prisoner. Proof of demand of prisoner necessary. Demand of prisoner's attorney not sufficient. (Duff vs Carr, 91 Mo. App. 16.)

Duty to inspect food of prisoners. (State ex rel. vs Walbridge, 62 Mo. App. 162.)

Regulation of Markets, Etc.—For business license, see note, clause four, of this article.

Is exercise of police power. (City of Lamar vs Weidman, 57 Mo. App. 507.)

Ordinance prohibiting meat shops within six blocks of market house, held valid. (St. Louis vs Weber, 44 Mo. 547.)

Ordinance forbidding any person not lessee of butcher's stall in market house, selling fresh meats in less quantities than one quarter, held valid. (St. Louis vs Jackson, 25 Mo. 37.)

City ordinance, forbidding sale of meat on Sunday, after nine o'clock in the morning, is not invalid. (St. Louis vs DeLassus, 205 Mo. 578.)

Market cannot be established in public street. (*Schopp vs St. Louis*, 117 Mo. 131; see cases cited, clause four, this section.)

Power to Purchase, Condemn, Rent, Lease or Otherwise Acquire Property.

—(See note to article 1, section 1, power to take and hold property.)

City may lease building for hospital and quarantine purposes, and is liable for rent though building is not actually used. (*Aull vs City of Lexington*, 18 Mo. 401.)

Fifteenth. Engrossing, Etc.—Weights and Measures—Inspection—Engineers' License.—To restrain and punish engrossing, forestalling or regrating; to regulate and to provide for the inspection of, weighing or measuring and vending of all articles of food or provisions intended for human consumption, and places and manner of inspecting the same; to establish and regulate the standard of weights and measures to be used in the city, and to provide for the inspection of all weights and measures and to compel all dealers in coal to weigh the same on public scales; and to establish, license, tax and regulate public scales and charges for use of the same; to make provision for the inspection, weighing or measuring of lumber and other building material and for the inspection of engines, steam boilers and all steam heating apparatus; to license engineers and others using steam boilers or other steam heating or electrical apparatus in the city; to provide for the inspection, weighing or measuring of oil, coal oil, naphtha, benzine and other burning fluids, beer, ale, wines, whiskey, rum, brandy and other malt, vinous or spirituous liquors in barrels or other vessels; to regulate the inspection, weighing or measuring of hay, corn, oats and all other products; coal, charcoal, firewood and all other kinds of fuel to be used in the city; to regulate the inspection, weight, quality and sale of bread; to appoint weighers, gaugers and inspectors, and to prescribe their duties and regulate their fees and compensation.

Regulating Weights and Measures—Is an exercise of police power. (*City of Lamar vs Weldman*, 57 Mo. App. 507; *Fulton vs Sims*, 127 Mo. App. 677, and cases there cited.)

Such regulation cannot extend to articles not intended to be offered for sale within the city. (*City of Lamar vs Weldman*, 57 Mo. App. 507.)

Ordinance requiring coal dealers to furnish official certificates to consumers, which authorizes a reasonable charge by city for certificate is valid. (*Sylvester Coal Co. vs St. Louis*, 130

Mo. 323; *City of St. Charles vs Elsner*, 155 Mo. 671.)

Regulations are ordained for benefit of purchaser to protect him from false weights. Do not apply to sale where commodity sold is weighed on purchaser's own scales, with his approbation. (*Fulton vs Sims*, 127 Mo. App. 677.)

Inspection of Food.—Ordinance prohibiting sale of skimmed milk is valid, exercise of police power. (*Kansas City vs Cook*, 38 Mo. App. 660.)

City has right to fix reasonable stan-

dard of purity of milk and cream sold within city, and to prohibit sale of quality inferior to that fixed by ordinance and to exact regulation fee and occupation tax. (St. Louis vs Liessing, 190 Mo. 464; St. Louis vs Grafeman Dairy Co., 190 Mo. 492; St. Louis vs Reuter, 190 Mo. 514.)

City may prohibit use of coloring matter, whether it increases or lessens

wholesomeness of milk. (St. Louis vs Polinsky, 190 Mo. 516.)

May prohibit preservatives. (St. Louis vs Schuler, 190 Mo. 524.)

City cannot require higher standard than is made by state statute. (St. Louis vs Klausmeier, 213 Mo. 119; R. S. 1899, Sec. 6165; R. S. 1909, Sec. 9534.)

Sixteenth. Quarantine—Food and Drink—Hospitals—Slaughter Houses, Etc.—Nuisances.—To establish and enforce quarantine laws and regulations to prevent the introduction and spread of contagious or infectious diseases among men or animals of the city or within two miles thereof; to provide for the destruction of all diseased or deleterious articles of food or drink and of all animals sick of a disease dangerous to health; to establish and regulate hospitals and quarantine stations outside and inside the city limits; to secure the general health and safety of the inhabitants by any necessary measure; to regulate stone quarries and the quarrying of stone; to provide for the erection, management and regulation of slaughter houses and to regulate the slaughtering of animals, to regulate or prohibit the driving of stock through the city or any part thereof; to prohibit, remove or regulate the erection of soap factories, stock yards, slaughter houses, pig pens, stables, cow stables, livery stables, dairies, coal oil and vitriol factories and all other factories which the Common Council may, by ordinance, declare to be a nuisance, within prescribed limits in the city, and within two miles thereof; to regulate or prevent the carrying on of any business which may be dangerous or detrimental to the public health, or the manufacture or vending of articles deleterious to the health of the inhabitants; to declare, prevent and abate nuisances on public or private property, and the causes thereof.

(R. S. 1899, Sec. 6164, Amended Laws, 1909, p. 312; R. S. 1909, Sec. 9574):

"None of the objects sought to be secured by the charter are of more importance than the health of its inhabitants, and ordinances having such in view have been often upheld as an exercise of the police power of the state, delegated to the city." (St. Louis vs Liessing, 190 Mo. 464, l. c. 485.)

Quarantine regulation not invalid as interfering with interstate commerce. (St. Louis vs Boffinger, 19 Mo. 13; St.

Louis vs McCoy, 18 Mo. 238.)

Nor as a delegation of the law making power of the government. (Metcalf vs St. Louis, 11 Mo. 102.)

The right of city to quarantine does not include right to seize private property without compensation and an action will lie for seizing a hotel and converting it into a pest house. (Barton vs City of Odessa, 109 Mo. App. 76.)

City may lease building for quarantine hospital and is liable for rent therefor, even though it be not used. (Aull vs City of Lexington, 18 Mo. 401.)

Christian Scientist is not a physician, and is not liable under ordinance, requiring physicians to report contagious diseases to the board of health. (*Kansas City vs Baird*, 92 Mo. App. 204.)

City has power as health regulation, to pass an ordinance, requiring owners or occupants of lots to remove all weeds over a foot high. Held not necessary to determine whether sun flowers are weeds, within meaning of ordinance. (*St. Louis vs Galt*, 179 Mo. 8.)

Quarries. (*Warren vs Cavanaugh*, 33 Mo. App. 102; *Schaub vs Perkinson*, 108 Mo. App. 122.)

Slaughter houses. (*St. Louis vs Howard*, 119 Mo. 41; *St. Louis vs Howard*, 119 Mo. 47; *St. Louis vs Kreutz*, 12 Mo. App. 591; *Zugg vs Arnold*, 75 Mo. App. 68.)

Candle and Oil Factory. (*Danker vs Goodwin Mfg. Co.*, 102 Mo. App. 723.)

Brewery. (*Beckley vs Skroh*, 19 Mo. App. 75.)

Livery stables. (*St. Louis vs Russell*, 116 Mo. 248; *Caskey vs Edwards*, 128 Mo. App. 237; *Mason vs Deitering*, 132 Mo. App. 26.)

Cow stables and dairies. (*McDonough vs Robbins*, 60 Mo. App. 156; *St. Louis vs Schnuckelberg*, 7 Mo. App. 536; *St. Louis vs Fischer*, 167 Mo. 654; *Fischer vs St. Louis*, 194 U. S. 361.)

Stock yards. (*Bielman vs Railroad*, 50 Mo. App. 151.)

Pig pens. (*Whipple vs McIntyre*, 69 Mo. App. 397; *St. Louis vs Stern*, 3 Mo. App. 48; *Smiths vs McConathy*, 11 Mo. 517.)

Brick kilns. (*State ex rel. vs Board of Health*, 16 Mo. App. 8; *Powell vs Brick & Tile Co.*, 104 Mo. App. 713; *Kirchgraber vs Lloyd*, 59 Mo. 59.)

Asphalt plants. (*Sultan vs Parker*, *Washington Co.*, 117 Mo. App. 636.)

Gas works. (*Marble Co. vs Gaslight Co.*, 128 Mo. App. 96.)

There is no prescriptive right to conduct business which is a nuisance. Question not affected by fact that there were no houses in vicinity when business was established, nor by fact that city licensed the business. One can not place upon his land anything which the law would pronounce a nuisance, and thus compel his neighbor to leave his land vacant or to use it only in such way as neighboring nuisance will allow. (*State ex rel. vs. Board of Health*, 16 Mo. App. 8; *Sultan vs Par-*

ker, *Washington Co.*, 117 Mo. App. 636.)

Establishment and location of institutions of business cannot be made to depend upon consent of owner or occupant of adjacent property. (*St. Louis vs Russell*, 116 Mo. 248; *St. Louis vs Howard*, 119 Mo. 41.) But city may require permission, by ordinance, for the establishment or location of each particular institution. (*St. Louis vs Fischer*, 167 Mo. 654, s. c. 194 U. S. 361.)

For conviction of violation of ordinance prohibiting erection of institution, it is necessary to prove that accused built it, caused it to be built, or owned it. (*St. Louis vs Howard*, 119 Mo. 47.)

City may regulate, by ordinance, the driving of cattle through the streets. (*St. Louis vs Rothschild*, 3 Mo. App. 563.)

Inspection of milk, see Cl. 15, this article, and note.

In caring for the public health. (*Murtaugh vs St. Louis*, 44 Mo. 479; *Ferrenbach vs Turner*, 86 Mo. 416; *Young vs Ry.*, 126 Mo. App. 1) and the abating, preventing and removing of nuisances on private property, not caused by city or its agents, (*Kiley vs City of Kansas*, 87 Mo. 103; *Armstrong vs City of Brunswick*, 79 Mo. 319.) city is performing its governmental functions and is not liable for failure to perform them.

But city is liable for unnecessary destruction of property in abatement of nuisances. (*Waggoner vs City of South Gorin*, 88 Mo. App. 25; *Allison vs City of Richmond*, 51 Mo. App. 133.)

City is liable for nuisances created by it. (*Edmondson vs City of Moberly*, 98 Mo. 523; *Scott vs City of Nevada*, 56 Mo. App. 189; *Martinowsky vs City of Hannibal*, 35 Mo. App. 70.)

City is liable for nuisances on its property if plaintiff suffer peculiar damages differing not only in degree but in kind from that suffered by public generally. (*VanDevere vs Kansas City*, 107 Mo. 83; *Whitfield vs Town of Carrollton*, 50 Mo. App. 98; *Fairchild vs St. Louis*, 97 Mo. 85; *Rude vs St. Louis*, 93 Mo. 408.)

City liable for pollution of streams by sewers. (*Smith vs City of Sedalia*, 182 Mo. 1, s. c., 152 Mo. 283.)

See note, article 1, sec. 1.

Seventeenth. Steam Boilers, Etc.—Plumbers—Engineers.—

To regulate the use of steam boilers, steam generators, electric motors and machinery, and to provide for the registration of plumbers and stationary engineers.

City has power to license engineers and licensing to a board. (St. Louis and may delegate power of examining vs Lamp Mfg. Co., 139 Mo. 560.)

Eighteenth. Construction of Buildings—Protection of Health, Etc.—To regulate the plans, materials and manner of construction of all buildings within the city, and maintenance, care, management, operation of all tenement houses, lodging houses, cellars, theaters, public halls, places of amusement and other buildings used for public gatherings in the city, and to regulate and prescribe the number, size and location of places of entrance and exit and the modes of hanging doors therein for the better protection of the lives, health and morals of the inhabitants of the city.

Power to regulate construction of buildings does not confer power on city to change common law rule as to lateral support between adjacent owners. (Carpenter vs Reliance Realty Co., 103 Mo. App. 480.)

Nineteenth. Dangerous Structures—Inspection of—Nuisance.—To prohibit the erection, placing or repairing of wooden buildings within such limits as may be prescribed by ordinance, and to direct that all buildings within the limits prescribed shall be made or constructed of fireproof material, and to declare all dilapidated buildings to be nuisances, and to direct the same to be repaired, removed or abated, in such manner as they shall prescribe and direct; and to declare all wooden buildings within the fire limits, which they may deem dangerous to contiguous buildings, to be nuisances, and to require or cause them to be removed or abated, in such manner and under such penalties to the owners or proprietors thereof as they may direct.

Wooden buildings not per se a nuisance and when erected while lawful, so to do, cannot afterward be abated because within fire limits. (Allison vs Richmond, 51 Mo. App. 133.)

The erection of frame building in violation of ordinance, is not a nuisance per se, and cannot be enjoined by private individual. (Rice vs Jefferson, 50 Mo. App. 464.)

City may remove building constructed within fire limits in violation of or-

dinance. (Eichenlaub vs St. Joseph, 113 Mo. 395.)

Under pretense of repairs, a new building of larger dimension and increased capacity cannot be erected. (Caskey vs Edwards, 128 Mo. App. 237.)

Power to require owners to remove or put in safe condition, does not authorize an ordinance, requiring the agents of owners to do so. (St. Louis vs Kainie, 180 Mo. 309.)

Twentieth. Chimneys, Etc.—Dangerous Occupations and Materials—Fire Walls—Fire Escapes—Regulation.—To regulate or prohibit the construction and maintenance of chimneys, stacks, flues, fireplaces, stove pipes, ovens, boilers, or other apparatus used in or about any building or manufactories, and to cause the same to be removed or put in a safe condition, when considered dangerous; to prevent the deposit of ashes in unsafe places, and to provide for the inspection of all places within the city and of all property of the city outside the limits thereof, for the better protection of the health, lives, morals and property of the inhabitants of the city;

To regulate and prevent the carrying on of manufactories and works dangerous in promoting or causing fires; to regulate, prevent and prohibit the use of fireworks and firearms;

To direct, regulate or prohibit the storage, manufacture, sale and use of gun powder and all combustibles, explosives and dangerous materials within the city, and to regulate or prohibit the transportation of the same through the streets, alleys or public highways of the city, and to regulate or prohibit the use of candles or other lights in stables, outhouses, and other like houses;

To regulate and prescribe the manner and order of building and maintaining parapets, partition walls, fire walls, and partition fences;

To compel the owners, lessees or occupants of all buildings to have scuttles on the roofs, and stairs or a ladder leading to the same, and to provide such buildings with adequate fire escapes and apparatus and appliances therein for protection against fire;

And generally to establish such regulations for the prevention and extinguishment of fires as the Common Council may deem expedient.

Smoke stacks, chimneys, etc. (*Whalen vs Keith*, 35 Mo. 87; *St. Louis Safe Deposit & Savings Bank vs Kennett Es-*

tate, 101 Mo. App. 370; *State ex rel. vs Shannon*, 130 Mo. App. 90.)

Twenty-first. Occupations and Conduct Affecting Public Morals, or Health—Regulation.—To regulate, prohibit or suppress any act, conduct, pursuit, employment, practice, game, sport, or contest, place or thing whatsoever, which may be injurious to the public morals or to the health or dangerous to the lives or property of the inhabitants of the city or detrimental to the peace or reputation of any neighborhood therein; and in exercise of such police powers, to prevent and suppress bawdy houses, houses of ill fame and fornication, prize fights, dog fighting, cock fighting, gaming and gambling houses, and to authorize destruction of instruments

for gaming, and to prevent and suppress mock auction houses, dance halls, public dances, fortune tellers, clairvoyants and palmists, pool rooms and betting rooms; lotteries or places where any game in which chance predominates is played for anything of value, and to punish any and all persons who may engage in such game or games or who keep or frequent such houses or places, or set up or permit the same, or lotteries, or sell lottery tickets; and to prohibit the sale, distribution or giving away, directly or indirectly, of lottery tickets, notices, certificates, and advertisements of lotteries and lottery drawings, and to suppress places where lottery tickets, notices, circulars, and advertisements of lotteries and lottery drawings are kept, sold, distributed or given away; to prevent and suppress opium smoking and houses or places kept therefor, and to punish the keeper of such house or place, or any persons who smoke opium therein or frequent the same; and to regulate the sale of opium, cocaine and other similar drugs, cigarettes, cigars and tobacco, and to prohibit the sale of the same to minors.

Ordinance for suppression of lottery and policy shops sustained. (*Kansas City vs Hallett*, 59 Mo. App. 160; *Ex parte Kiburg*, 10 Mo. App. 442.)

Destruction of gaming device, without judicial condemnation, unconstitutional. (*Lowry vs Rainwater*, 70 Mo. 152.)

Gaming and gambling synonymous. (*State vs Dyson*, 39 Mo. App. 297.)

In prosecution for violation of city ordinance forbidding the maintaining of a gambling device a record of a conviction in another case of the same defendant for gambling at the same time was inadmissible in evidence for the purpose of showing that the table upon which the game was played was gambling device. (*City of Mexico vs Harris*, 115 Mo. App. 707.)

Any kind of gambling table or device which is adapted, devised or designed for playing any game of chance for money or property is a gambling device. (*State vs Rosenblatt*, 185 Mo. 114.)

A crap table is a gambling device. (*State vs Locket*, 188 Mo. 415.)

Suppression of bawdy houses. (*State vs DeBar*, 58 Mo. 395; *State vs Clark*, 54 Mo. 17.)

What must be shown to prove offense in keeping bawdy houses. (*State vs Price*, 115 Mo. App. 656; *State vs Horn*, 83 Mo. App. 47.)

City may prohibit females, whether proprietors or employes, waiting on customers in saloons. (*State vs Canton*, 43 Mo. 48; *R. S. 1899*, Sec. 2185, *Amended Laws 1909*, p. 443; *R. S. 1909*, Sec. 4740.)

Exhibition of one's self in a condition tending in and of itself to degrade the public morals, to annoy or inconvenience the citizens in a discharge of their daily duties and to destroy the peace, comfort and good order and well being of such is an offense which is the proper subject of police regulation, therefore city may provide punishment for drunkenness. (*City of Galatin vs Tarwater*, 143 Mo. 40.)

One charged with drunkenness or disorderly conduct on street is not entitled to trial by jury. (*Delaney vs Police court of Kansas City*, 167 Mo. 667.)

A conviction or acquittal under a state law is no bar to a prosecution for the same offense by a city. (*City of Lebanon vs Gordon*, 99 Mo. App. 277.)

Twenty-second. Obscene Literature, Etc.—Prohibit Sale of.

—To prevent the sale, circulation and disposition of obscene literature, including books, papers, prints, pictures and the like, and to punish any person who sells or offers for sale, or who circulates or disposes of such literature, books, papers, prints, pictures and the like.

The test which determines the obscenity or indecency of a publication is the tendency of the matter to deprave and corrupt the morals of those whose minds are open to such influences. (United States vs Bebout, 28 Fed. 522.)

Obscenity does not depend upon truth or falsity of publication. (Commonwealth vs Landis, 8 Phila. 453.)

One indecent item makes publication an obscene paper. (Commonwealth vs Havens, 6 Pa. Co. C. & R. 545.)

Twenty-third. Sign Boards, Etc.—Control of—Nuisance.—

To regulate, prevent or prohibit the erection, maintenance or display of sign boards and bill boards and all signs, posters or other advertisements or of advertising matter which are offensive, improper, unsightly, indecent, lascivious or obscene, upon, along or near the sidewalk, streets, or public places or within view thereof; and to declare any such sign board, poster or other advertising matter to be a public nuisance, and provide for the abatement thereof;

To acquire by condemnation or otherwise the right to regulate and control bill boards and sign boards and other structures for advertising purposes, upon, along or near sidewalks, streets, alleys, highways or public places or within view thereof, within the city, and to provide for the regulation of the same.

Regulation of billboards. (Crawford vs Topeka, 51 Kas. 756.)

Twenty-fourth. Riots, Etc.—Games or Amusements—Noises—Dangerous or Annoying—Animals Running at Large—Obstructions on Sidewalks, Etc.—

To restrain and prevent any riot, rout, noise, disturbance or disorderly assemblage; to prohibit the playing of ball, the rolling of hoops, flying of kites, or any other amusement or practice dangerous or annoying to persons or property or tending to frighten horses in any street or place in the city; and to regulate or prohibit the running at large of cattle, cows, hogs, goats, chickens, geese, ducks, and all poultry, and all other animals or fowls, within the limits of the city, and to authorize the impounding and sale of the same; to restrain and prohibit the ringing of bells, blowing of horns, bugles and steam whistles, crying of goods, and

all other noises; and all unreasonable or unnecessary noises made in the operation of street cars or other public vehicles, and to restrain and prohibit performances and practices tending to the collection of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise; to prevent and remove all obstructions and encroachments upon the sidewalks, curb stones, carriageways, streets, avenues and alleys, at the expense of the owners or occupants of the ground fronting thereon.

Duty of mayor and members of council under state law in case of riot. (R. S. 1899, Sec. 2132; R. S. 1909, Sec. 4686.)

All city corporations have power by ordinance to restrain any animal from running at large within corporate limits of city outside of owner's enclosure. (Sherrill vs Murray, 49 Mo. 233.)

There is a distinction between a penalty for permitting animals to run at large and impounding animals found running at large in public streets. Necessary to show negligence on part of owner for conviction of permitting animals to run at large but animals found running at large may be impounded irrespective of fault of owner. (Evans vs Holman, 202 Mo. 284, s. c. 114 Mo. App. 449; McVey vs Barker, 92 Mo. App. 498, distinguishing Spitler vs Young, 63 Mo. 42.)

Penalty for animals running at large within city may be enforced against owner who resides beyond corporate limits, (Spitler vs Young, 63 Mo. 42.) and animals may be impounded although owner is non-resident of city at the time animal strayed into city. (Jeans vs Morrison, 99 Mo. App. 208.)

An ordinance prohibiting cattle with horns from running at large does not discriminate between owners of cattle with horns and cattle without horns. (City of Doniphan vs White, 110 Mo. App. 504.)

Injunction of impounding. (Tinsley vs Town of Caruthersville, 121 Mo. App. 142.)

City may regulate driving of cattle through street. (St. Louis vs Rothschild, 3 Mo. App. 563, Clause 16 of this section.)

For obstructions in streets, see note, Clause 11, this Section.

Twenty-fifth. Dogs—Licenses, Etc.—To license, tax, regulate or restrain and prohibit the running at large of dogs and cats, and to authorize their destruction when at large contrary to ordinance, and to impose penalties on the owners or keepers thereof.

City may impose her capita tax upon dogs by way of license and may impose fine upon person for keeping dog with-

out license. (City of Carthage vs Rhodes, 101 Mo. 175.)

Twenty-sixth. Vagrants, Etc.—Punishing.—To restrain and punish vagrants, mendicants, street beggars, gamblers and prostitutes, and to define who shall be considered and treated as vagrants.

Regulation concerning vagrants not in conflict with state laws. (St. Louis vs Bentz, 11 Mo. 61.)

City may define and punish vagrants. (Kansas City vs Neal, 49 Mo. App. 72.)

City can not make it an offense to associate with people of bad reputation. Law has no concern with mere guilty

intention unconnected with overt act. (Ex parte Smith, 135 Mo. 223.)

City cannot make loafing on street corner without interfering with rights of others, engaging in disorderly conduct or disturbing peace an offense. strike picket. (St. Louis vs Gloner, 210 Mo. 502.)

Twenty-seventh. Safety Appliances, Etc., for Railways—Regulation—Penalty, Etc.—To require all railways and railroads to provide proper fenders and other safety appliances and the most approved machinery and methods for their cars and tracks and the operation thereof, for the protection of human life and the lessening of danger thereto, and to make all needful regulations for the operation of the same, and to enforce all such regulations by such fines and penalties as may be prescribed by ordinance, subject to the limitations of this article.

Ordinances of cities regulating the speed of railway trains are police regulations, and the municipalities have such power, though not given in express terms, as it may be implied from the power to abate nuisances or provide for the general welfare, etc. (*Bluedorn vs Ry.*, 108 Mo. 439; *Jackson vs Ry.*, 157 Mo. 621, 639; *Merz vs Ry.*, 88 Mo. 672; *Sluder vs Transit Co.*, 189 Mo. 107, 131-132 [also holding that no acceptance by the company is required to make it amenable to police regulations, and citing a large number of cases on cognate points.] Approved in *Eckhard vs Transit Co.*, 190 Mo. 593; *Stotler vs Railroad*, 200 Mo. 107; *Moore vs Transit Co.*, 95 Mo. App. 728, s. c. 194 Mo. 1; *White vs Railroad*, 202 Mo. 539.)

It makes no difference that the company obtained its charter direct from the legislature, when such course was permitted prior to the present constitution, nor that the company laid its track with so short a curve and at such grade that it cannot conveniently move its trains at the speed fixed by the ordinance, which in this case was six miles per hour. (*Neier vs Mo. Pac. Ry. Co.*, 12 Mo. App. 25.)

The ordinance need not be limited in its application to street crossings or public highways, but may apply as well to private grounds or switch yards (*Prewitt vs Ry.*, 134 Mo. 615, 626, approving *Merz vs Ry.*, 88 Mo. 672, 677, s. c. 14 Mo. App. 459; *Bluedorn vs Ry.*, 108 Mo. 439, 445-446.)

Vigilant watch ordinances. (*Sluder vs Transit Co.*, 189 Mo. 107; *Rapp vs Transit Co.*, 190 Mo. 144; *Latson vs Transit Co.*, 192 Mo. 449; *Wise vs Transit Co.*, 198 Mo. 546.)

Ordinance requiring ringing of bell. (*Gratiot vs Mo. Pac. Ry. Co.*, 116 Mo.

450; *Murray vs Railroad*, 101 Mo. 236; *Jennings vs Railroad*, 99 Mo. 394; *Stotler vs Ry.*, 200 Mo. 107.)

Railroad must provide and maintain necessary structure for convenience and safety of public travel at crossing. (*City of Kansas vs Belt Ry.*, 102 Mo. 633.)

The statute requiring cattle guards and wing fences has no application to street crossing in city. (*Kansas City vs Railroad*, 187 Mo. 146.)

Requiring watchmen and flagmen. Ordinances prescribing precautions to be observed by railroads at street crossings. (*Wilkins vs Railroad*, 101 Mo. 93; *Murray vs Railroad*, 101 Mo. 236; *Jennings vs Railroad*, 99 Mo. 394; *Edwards vs Railroad*, 94 Mo. App. 36.)

Equity will not enjoin enforcement of ordinance requiring railway to maintain flagman at crossings. (*Kansas City Cable Co., vs Kansas City*, 29 Mo. App. 89.) But, contra, that enforcement of municipal ordinances, if unreasonable, may be enjoined. (*Coal Co. vs St. Louis*, 130 Mo. 323.)

A city under charter power to control the streets and general welfare clause may by ordinance limit the time that railway trains may block a street. (*Burger vs Mo. Pac. Ry.*, 112 Mo. 238, 250.)

Where power to legislate is given a municipality, but the mode of its exercise is not prescribed, an ordinance in pursuance thereof, though *prima facie* valid, is subject to judicial review as to its reasonableness or oppressiveness as applied to existing conditions, which is a question for the court and not the jury, and it may be declared void on the ground of its being oppressive or unreasonable. (*Zumault vs K. C. Air Line*, 71 Mo. App. 670, 676, et seq., and cases cited;

White vs St. L. & S. F. Ry., 44 Mo. App. 540; *City of Plattsburg vs Hagenbush*, 98 Mo. App. 669.)

But a clear case of unreasonableness or oppressiveness must be established before the court will declare the ordinance void. (*Gratlot vs Mo. Pac.*, 116 Mo. 450, 467, and cases cited.)

Ordinances limiting speed to six miles an hour upheld. (*Neier vs Mo. Pac. Ry.*, 12 Mo. App. 25.)

Ordinance limiting speed of trains to four miles an hour, declared unreasonable. (*White vs Railroad*, 41 Mo. App. 540.) But this is a question for the court. (*Neier vs Railroad*, 12 Mo. App. 25.) Six miles an hour held unreasonable under some conditions. (*Zumalt vs Air Line*, 71 Mo. App. 670; *City of Plattsburg vs Hagenbush*, 98 Mo. App. 669.)

Liability for Accident by Reason of Failure to Observe Ordinance.—The running of a railroad train through the corporate limits of a city in excess of the speed prescribed by ordinance is negligence per se, and a cause of action results to any person injured by such violation. (*Sluder vs Ry.*, 189 Mo. Loc. Cit. 135. Referring to numerous cases so holding and expressly affirming *Jackson vs Ry.*, 157 Mo. 621, 641 and cases following same, and overruling *Fath vs Ry.*, 105 Mo. 1.

c. 545 and the line of numerous cases following the latter. *Gratlot vs Mo. Pac.*, 116 Mo. 450, 463; *Hutchinson vs. Railroad*, 161 Mo. 246; *Stotler vs Railroad*, 200 Mo. 107. See cases cited above.)

Less rate of speed at busy crossing than that permitted by ordinance may be negligence. (*Holden vs Railroad Co.*, 177 Mo. 456.)

But no rate of speed is negligence per se, unless contrary to the provisions of express law or ordinance. (*Maheer vs Ry.*, 64 Mo. 267; *Nutter vs Railroad*, 22 Mo. App. 328.)

Failure of railroad to keep flagman or watchman at street crossing when required by ordinance, negligence per se. (*Murray vs Railroad*, 101 Mo. 236; *Dickson vs Mo. Pac. Ry. Co.*, 104 Mo. 491.)

Failure to have man on backing train or to have experienced brakeman. (*Rafferty vs Railroad Co.*, 91 Mo. 33; *Bergman vs Ry. Co.*, 88 Mo. 678.)

Failure to ring bell as required by ordinance is negligence per se. (*Gratlot vs Mo. Pac. Ry.*, 116 Mo. 450, 464; *Reed vs Railroad*, 107 Mo. App. 238, 245 and cases cited.) Unless such failure does not contribute to the injury. (*Hutchinson vs Ry.*, 161 Mo. 246, 253.)

Twenty-eighth. Telephone, Telegraph Lines, Street Railways, Etc.—Other Public Utilities—Rates—Wires—Regulation—Land in Use.—To regulate the rates to be charged for service by all persons, firms and corporations owning or operating any telephone or telegraph lines, systems or exchanges, street railway lines and systems, tunnels, subways, conduits, bridges or viaducts, or engaged in furnishing gas, steam or electricity for lighting, heating or power, or engaged in furnishing light, heat, power or refrigeration, or engaged in any other public utility under any franchise granted by the State of Missouri or the City of Kansas City; and to require any of such persons, firms and corporations to put and keep their wires, pipes and appliances under ground; and to regulate the use of the streets, alleys and public highways of the city by any such person, firm or corporation;

To sell, rent, lease or otherwise dispose of the products, use or service of any land, property, public utility or convenience, plants or

works of any kind, the ownership, use or control of which is or shall be in the city.

In *State ex rel. vs Telephone Co.*, 189 Mo. 83, the Supreme Court held that Kansas City did not have right to regulate telephone charges under provisions of constitution or enabling act of 1887, but held further that legislature could confer that power upon city. General Assembly conferred the power to regulate rates charged by public utilities in 1907. (*Laws of 1907*, p. 119; *R. S. 1909*, Secs. 9568, 9569, 9570.)

(*State ex rel. vs Laclede Gas Light Co.*, 102 Mo. 472.) But see authorities cited in note to Article 16, Section 2, holding that city cannot irrevocably establish rates for entire period of franchise.

Rates must be uniform and apply alike to all customers of same class and are subject to review by courts. (*Vanderberg vs Kansas City Missouri Gas Co.*, 126 Mo. App. 600.)

It was held that where charter granted by city fixes the maximum price that price cannot be reduced by city.

As to power of city in regard to location of wires and appliances and regulating the use of streets and alleys, see clauses 10 and 11, this section.

Twenty-ninth. Control and Regulate Smoke Consumers, Etc.—To control, regulate or prohibit the emission of dense smoke from chimneys and chimney stacks of buildings, manufactories, locomotives or engines or in any manner within the city.

(*St. Louis vs Packing Co.*, 141 Mo., 375; *State vs Tower*, 185 Mo. 79; *State vs Hemenover*, 188 Mo. 381; *State vs Dower*, 134 Mo. App. 352.) *Laws 1901*, p. 73, *R. S. 1909*, Secs. 9689, 9690.

Thirtieth. Cruelty to Children—Fines, Etc.—To prohibit and prevent cruelty to children; to appropriate such sums as may be paid into the treasury from fines collected on conviction of persons charged with cruelty to children or animals, and to authorize the payment of the same, or any part thereof, to any society organized and maintained for the prevention of such cruelty.

Abuse of Animals—City may prohibit cruelty to animals although same acts may be misdemeanors under statute. (*St. Louis vs Schoenbusch*, 95 Mo. 618.)

What is abuse. (*Marshall vs Bingle*, 36 Mo. App. 122.)

Ordinance fixing load for two horse team and wagon not void for partiality. (*Kansas City vs Sutton*, 52 Mo.

App. 398.)

Intent. (*State vs Hackfath*, 20 Mo. App. 614; *State vs Roche*, 37 Mo. App. 480; *State vs Prater*, 130 Mo. App. 348; *State vs Haley*, 52 Mo. App. 520.)

Leaving horse unattended in street. (*Becker vs Schutte*, 85 Mo. App. 57; *Groom vs Kavanagh*, 97 Mo. App. 362.)

See Clause 11, this article.

Thirty-first. Liquors—License—Regulation of Dramshops, Etc.—To restrain, regulate and prohibit the selling or giving away of any wines, intoxicating or malt liquors, by any person within the city, other than those duly licensed; to forbid and punish the giv-

ing away of any wines, intoxicating or malt liquors to any woman, minor or habitual drunkard;

To pass any ordinance touching dramshops, beer houses, tippling houses or saloons, and the granting or revoking of the license for the same, not in conflict with this Charter and the Constitution and Laws of this State.

Method of licensing dram shops, see Article XVII.

State regulations R. S. 1899, Chap. 22; R. S. 1909, Chap. 63.

No one has a natural right to sell intoxicating liquor because the tendency of its use is to deprave public morals and to do so without a license from proper authority is unlawful. A dram shop license is a mere permit and not a contract with licensee which creates vested rights, but is subject at all times to police power and may be revoked. (State vs Seebold, 192 Mo. 720, l. c. 727, and cases there cited; Barnett vs County Court, 111 Mo. App. 693.)

But when one complies with all requirements of the dram shop law he bases his right to a license upon a valid and constitutional statute and is entitled to a county license and mandamus will lie. (State ex rel. vs Turner, 210 Mo. 77, l. c. 85.)

But before one can legally conduct dram shop in a city he must have both city and county license. (Sharp vs City of Carthage, 48 Mo. App. 26; State vs Harper, 58 Mo. 530.)

The propriety of the issue of a city dram shop license in any given case is under the charter a matter solely within the discretion of the police board. (Ex Parte Joffee, 46 Mo. App. 360, l. c. 46, cited with approval in Sluder vs Transit Co., 189 Mo. 107, l. c. 194 and State vs Hamey, 168 Mo. 167, l. c. 213; State ex rel. vs Stiff, 104 Mo. App. 685.)

It is no defense to a prosecution for failure to take out license that auditor has refused to issue it. If refusal was wrongful the applicant has remedy by mandamus. (City of Kansas vs Flinders, 71 Mo. 281.)

When the state law says that a license shall be granted on the petition of two-thirds of the inhabitants of a block, the Board of Aldermen have not the authority to say that there shall be a petition of two-thirds of the entire

town. Though the city is authorized to regulate a dram shop, it cannot regulate it in those particulars, which would be inconsistent with the regulation made by the state. (State ex rel. vs McCammon, 111 Mo. App. 626, l. c. 631.)

The statute of the state governing the sale of liquors and the conduct of dram shops thereunder becomes a part and parcel of the license. (Barnett vs County Court, 111 Mo. App. 693.)

The sale of a single glass of liquor without a license is a violation of the ordinance prohibiting the sale of intoxicating liquors without a license. (City of Kansas vs Muhlback, 68 Mo. 638; City of Springfield vs Ford, 40 Mo. App. 586; State vs Small, 31 Mo. 197.)

Kansas City has authority to enact ordinance prohibiting sales of liquors to women. (City of Joplin vs Jacobs, 119 Mo. App. 134.)

May prohibit females, whether proprietors or employes, waiting on customers in saloons. (State vs Canton, 43 Mo. 48; R. S. 1899, Sec. 2185; R. S. 1909, Sec. 2740.)

Druggist and dramshop keeper distinguished. (State vs Willard, 39 Mo. App. 251.)

Keeping saloons open on Sunday. (State vs Binder, 38 Mo. 450; State vs Kessels, 120 Mo. App. 233.)

The sale of liquor to a member by a bona fide social club not incorporated for profit is not a sale within the inhibition of dram shop law. (State ex rel. vs The St. Louis Club, 125 Mo. 308.)

But where the principal business of a club is selling intoxicating liquors to its members it is violation of the dram shop act. (State ex inf. vs Kirkwood Social Athletic Club, 121 Mo. App. 87; State ex inf. vs Rosehill Pastime Athletic Club, 121 Mo. App. 81; State ex rel. inf. vs Rod & Gun Club, 121 Mo. App. 364.)

Thirty-second. Maintenance of Insane and Poor Persons.—To provide for the support, maintenance and confinement of insane persons, and to make suitable provisions for the maintenance and support of poor persons, and to make suitable provisions for the care and maintenance of sick and injured persons.

Council cannot appropriate money to charitable institutions not under control of city. (*Hitchcock vs St. Louis*, 49 Mo. 484.)

Insane Asylum of City of St. Louis

is a private institution belonging to and controlled by city of St. Louis. It is not included under general statute as eleemosynary institution of state. (*State ex rel. vs Seibert*, 123 Mo. 424.)

Thirty-third. Census.—To provide for the enumeration of the inhabitants of the city for any purpose whatever.

Courts will take judicial notice of number of inhabitants as shown by

municipal census. (*State ex rel. vs. Dolan*, 93 Mo. 467.)

Thirty-fourth. Corporations—Rights of City in.—To take all needful steps in and out of the State to protect the rights of the city in any corporation in which the city may have or acquire an interest.

Thirty-fifth. Officers and Agents—Term—Salaries and Duties.—To establish, create and prescribe the term of office, salaries and duties of all officers and the compensation and duties of all employes and agents necessary or proper in carrying into effect any of the powers of the city, in all cases not otherwise provided for by this Charter, and to establish the compensation of jurors and witnesses, respectively, for their services, except as is otherwise provided in this charter; *Provided*, That the salary, fee or compensation of any officer shall not be changed during the term for which he is elected or appointed, and that no officer receiving a salary shall receive any fees or other compensation for his services.

Distinction between officer and employee. (*State ex rel. vs Gray*, 91 Mo. App. 438; *State ex rel. vs Longfellow*, 95 Mo. App. 660.)

Change of salary does not apply to offices held at pleasure of appointing power. (*State ex rel. vs Johnson*, 123 Mo. 43.)

An officer who has served his full term holds thereafter as a holdover until his successor is appointed or until the appointing power chooses to re-

move him. (*State ex rel. vs Hawes*, 177 Mo. 360.)

Salary of officer holding over, not increased when. (*State ex rel. vs Smith*, 87 Mo. 158.)

A term of office fixed by law expires at the end of the term. Officer holding over after expiration of his term is de facto officer. (*State ex inf. vs Lund*, 167 Mo. 228.)

Facts that estop officer from claiming greater salary than that paid to

or received by him. (Galbreath vs Moberly, 80 Mo. 484.)

The right of city to fix compensation of officers does not necessarily confer the right to reduce, take away, or change the same. (Carr vs St. Louis, 9 Mo. 191.)

A city officer is entitled to the compensation fixed by ordinance and no more. (Carroll vs St. Louis, 12 Mo. 444; Chamberlain vs Kansas City, 125 Mo. 430.)

Provision that no officer having a salary shall receive any fees or other compensation for his services held not to apply to a policeman and that police-

man is entitled to fees as a witness in police court. (State ex rel. vs Gifford, 70 Mo. App. 522.)

City has no authority to require employee of city to pay notary fees received by him as notary into the city treasury. (Wood vs Kansas City, 162 Mo. 303.)

No fees allowed officer without statutory authority. (Hindman vs City of Springfield, 80 Mo. App. 579; Lonergan vs Louisiana, 83 Mo. App. 101; Kemp vs City of Monett, 95 Mo. App. 452; Hethcock vs Crawford County, 200 Mo. 170, l. c. 178.)

See Article IV. Officers.

Thirty-sixth. Elections—Precincts and Judges—To locate and establish as many voting precincts in each ward as may be necessary to accommodate the voters therein, and to guard and protect the same, and to appoint all necessary judges and clerks for the same; *Provided*, That a sufficient number of precincts be established in each ward so that not more than five hundred voters shall be compelled to vote at any one precinct.

Thirty-seventh. Ordinances Preserving Public Peace and Order.—To pass all needful ordinances for preserving order, securing persons and property from violence, danger and destruction, protecting public and private property, and for promoting the general interest and insuring the good government of the city.

City possesses and can exercise only powers granted in express words or those necessarily incident to or implied in the powers expressly granted or those which are essential to the declared objects and purposes of the corporation. (St. Louis vs Telephone Company, 96 Mo. 623; City ex rel. vs Eddy, 123 Mo. 546; State vs Butler, 178 Mo. 272; l. c. 313; St. Louis vs Kaime, 180 Mo. 309; l. c. 319; State ex rel vs Wilder, 200 Mo. 97, l. c. 105.)

Where there are both express and general charter provisions the special must be taken as intended to constitute an exception to the general provision. (Ruschenberg vs Railway, 161 Mo. 70.)

Power under general clause does not enlarge or annul power conferred by special provisions in relation to their various subject matters. (St. Louis

vs Kaime, 180 Mo. l. c. 318; Jaicks vs Merrill, 201 Mo. 91, l. c. 105.)

Charter will be construed strictly against the exercise of power, but the construction must not be so strict or technical as to defeat the evident objects or purposes of the corporation. (State ex rel. vs Allen, 183 Mo. 283, l. c. 291; St. Louis vs Herthel, 88 Mo. 128.)

For discussion of powers of city under general welfare clause, see Water Co. vs City of Aurora, 129 Mo. 540.

Many ordinances have been held to be within authority of city under general welfare clause which are now authorized by special provisions of the Kansas City Charter.

Inspection of milk. See St. Louis vs Liessing, 190 Mo. 464, l. c. 480.

Temporary closing of street for repairs. (Haller vs St. Louis, 176 Mo. 606.)

Vagrancy (St. Louis vs Bentz, 11 Mo. 61; St. Louis vs Cafferata, 24 Mo. 94.)

Cruelty to animals. (St. Louis vs Schoenbusch, 95 Mo. 618.)

Sale of liquor in parks. (State ex rel. vs Schweickardt, 109 Mo. 496.)

Filling wells in street. (Ferrenbach vs Turner, 86 Mo. 416.)

Regulating steam boilers and requiring license of engineers. (St. Louis vs Lamp Co., 139 Mo. 568.)

Removal of officers for misconduct. (State ex rel. vs Walbridge, 119 Mo. 383.)

Drunkenness on street. (City of Galatin vs Tarwater, 143 Mo. 40; Delaney vs Police Court of Kansas City, 167 Mo. 667.)

Thirty-eighth. Fire Patrols—Regulation.—To create, establish and maintain fire patrols, and salvage corps, and to provide by ordinance the officers and members thereof, and the rules and regulations which shall govern the same, and may by ordinance contract with any individual, association or corporation for the establishment and maintenance of fire patrols and salvage corps upon such terms and subject to such rules and regulations as the city may, in such ordinance, prescribe, and may set aside and appropriate money for the maintenance or employment thereof, or to carry out such contract.

See department of fire and water, Article XI.

Thirty-ninth. National Guard—Land For Use of.—To provide for or contribute to the support and maintenance of such organizations of the National Guard of Missouri as may be stationed or located in the city, and to acquire, by lease, purchase or otherwise, and hold land and buildings for such purposes.

Laws of 1907, p. 92; R. S. 1909, Secs. 9540, 9541 and 9542. (Knapp vs Kansas City, 48 Mo. App. 485.)

Fortieth. Dikes, Levees, Etc.—Lands For.—To purchase and acquire lands or rights-of-way beyond the city limits and outside the State of Missouri for the construction of levees, dikes and other works for the protection from floods and overflow of lands within the city limits, and shall have authority to appropriate funds for that purpose and for the purpose of constructing in whole or in part such levees, dikes and other work outside the State of Missouri for the protection from floods and overflow of lands inside the limits of said city. To establish levee districts within the city, to construct and maintain levees, dikes, drains and other works, and levy and collect special assessments to pay therefor.

See Article XII, establishment and maintenance of levee districts.
Article I, corporate powers.

R. S. 1899, Secs. 8361 to 8370; R. S. 1909, Secs. 5703 to 5713.

Forty-first. Particular Powers Not to Impair General Powers of Common Council, Etc.—Amendment of Ordinances, Etc.—Powers of Boards Elsewhere Contained in This Charter.—The foregoing enumeration of particular powers granted to the Common Council in this charter shall not be construed to impair any general grant of power herein or in this charter contained, nor to limit any such general grant to powers of the same class or classes as those so enumerated; and the Common Council shall have power to pass, publish, amend, and repeal all such ordinances, rules and regulations not inconsistent with the provisions of this charter or contrary to the laws of the State or of the United States as it may deem to be expedient or necessary in maintaining the peace, order, good government, health and welfare of the city, its trade, commerce, manufactures, or that may be necessary and proper to carry into effect the provisions of this charter.

Nothing in this article contained shall be construed to impair the powers conferred by this Charter upon the various boards and departments of the city government or head thereof, or to remove any requirements or restrictions in this Charter elsewhere contained.

See clause 37.

Forty-second. Common Council—Power to Impose Fines—Other Methods of Punishment.—And the Common Council shall have power to impose, enforce and collect fines, forfeitures and penalties for the breach of any provision of this charter or of any ordinance; to punish the violation of any provision of this Charter or any ordinance of the city by fine or imprisonment, or by both fine and imprisonment; but no fine shall exceed five hundred dollars nor imprisonment exceed twelve months for any one offense. Any person upon whom any fine is imposed shall stand committed until the payment of the same, with costs, and in default of such payment shall be imprisoned in the city prison, the workhouse, house of correction or house of refuge, hereinbefore provided; or in case of women or minors, in such other place as may be provided for them at public or private expense, to be designated by the court before whom conviction is had.

Every person so imprisoned in the city prison, the workhouse, house of correction or house of refuge, or other place as herein provided, shall be required to work for the city at such labor as his or her health and strength will permit, within or without said prison, workhouse, house of correction, house of refuge, or other place, not

exceeding ten hours each working day, and for such work such person shall be allowed, exclusive of his or her board, fifty cents per day for each day's work on account of said fine and costs. No city prisoner shall be required to labor outside the prison walls while in manacles.

This paragraph shall not be construed as limiting the city to any particular mode or method of enforcing its ordinances, as aforesaid; but the city shall have the right to enforce the same by any appropriate method, which is not inconsistent with or in violation of the constitution or laws of the State of Missouri.

City may punish violation of ordinance by fine. (*St. Louis vs Green*, 70 Mo. 562; *Spittler vs Young*, 63 Mo. 42.)

Authority to enforce a fine strictly construed. (*St. Louis vs Goeble*, 32 Mo. 295; 181 Mo. 137; 19 Mo. App. 69.)

Punishment by fine does not exclude other remedies. (*Carroll vs Campbell*, 110 Mo. 557, l. c. 567.)

City may pass ordinances providing punishment for acts which are punishable by indictment under state laws. (*State ex rel. vs Walbridge*, 119 Mo. 383; *City of Marshall vs Standard*, 24 Mo. App. 192.) Or which are misdemeanors under state law. (*St. Louis vs Schoenbusch*, 95 Mo. 618; *Pilot Grove vs McCormick*, 56 Mo. App. 530; *Kansas City vs Neal*, 49 Mo. App. 72; *Plattsburg vs Trimble*, 46 Mo. App. 459; *DeSoto vs Brown*, 44 Mo. App. 148; *Linneus vs Dusky*, 19 Mo. App. 20; *St. Louis vs De Lassus*, 205 Mo. 578.)

Ordinance fixing minimum and maximum penalty differing from that fixed by state law for same offense is not in conflict with state law. (*Kansas City vs Hallett*, 59 Mo. App. 160; *St. Joseph vs Vesper*, 59 Mo. App. 459; *St. Louis vs De Lassus*, 205 Mo. 578.)

City cannot enforce ordinance which includes a class of persons embraced within exception of statute. (*St. Louis vs Meyer*, 185 Mo. 583.)

Prosecution for violation of city ordinance abates upon death of defendant. (*Town of Carrollton vs Rhomburg*, 78 Mo. 547.)

May punish interference with officers making arrest. (*Independence vs Moore*, 32 Mo. 392.) But complaint must show that arrest being made was for an offense against the city. (*City of Marshall vs Standard*, 24 Mo. App. 192.)

Corporate existence of city cannot be questioned in proceeding to enforce ordinance. (*Fredericktown vs Fox*, 84 Mo. 59; *City of Clarence vs Patrick*, 54 Mo. App. 462; *Billings vs Dunnaway*, 54 Mo. App. 1; *State vs Fuller*, 96 Mo. 165; *State ex rel vs Birch*, 186 Mo. 205.)

Accused not entitled to trial by jury in police court. (*Ex parte Kiburg*, 10 Mo. App. 442; *City of Marshall vs Standard*, 24 Mo. App. 192; *Salisbury vs Patterson*, 24 Mo. App. 169; *St. Louis vs Knox*, 74 Mo. 79; *Delaney vs Police Court of Kansas City*, 167 Mo. 667.)

Prosecution under a city ordinance is but civil action. (*St. Louis vs Weitzel*, 130 Mo. 600; *Town of Canton vs McDaniel*, 188 Mo. 207, l. c. 228; *Delaney vs Police Court of Kansas City*, 167 Mo. 667, l. c. 678; *in re Ada Jones*, 90 Mo. App. 318; *City of Mexico vs Harris*, 115 Mo. App. 707; *City of Galatin vs Fannin*, 128 Mo. App. 324; *Town of Gower vs Agee*, 128 Mo. App. 427.)

Consequently an acquittal in a prosecution by the state is not a bar to an action for breach of ordinance. (*Town of Canton vs McDaniel*, 188 Mo. 207.)

See Cl. 14, this section and note.

Sec. 2. Appropriation of Money—Apportionment of Revenue to be Raised for Year—Indorsement of Comptroller.—No appropriation, or payment, shall be made from any revenue or fund

account in excess of the amount actually collected, and in the treasury and unappropriated. Within the first month of each fiscal year the Mayor and Common Council shall, by ordinance, as far as practicable, make an apportionment of the revenue to be raised for such year to the expenses of the several departments, and for all public works under proper headings, and for such other objects as it may be necessary to provide for; and the money then in the treasury, subject to apportionment and municipal revenues as collected, shall be distributed into different funds accordingly. At the time, or after making such apportionment, the Mayor and Common Council may, from time to time, by ordinance, appropriate money to the use of a department, and the same may be paid out by such department, subject to limitations in this charter specified, without further action by ordinance; and any balance at any time standing to the credit of a department, unexpended and not set apart by a department for a specific contract, shall be subject to withdrawal, by ordinance, and reappropriation to other uses. All ordinances that contemplate the appropriation or payment of any money, shall, upon their second reading, be referred to the appropriate committee of the house in which such ordinances are introduced, and the committee shall obtain the endorsement thereon of the comptroller to the effect that sufficient unappropriated money stands to the credit of the fund or revenue account therein mentioned, to meet the requirements of such ordinances and that the same is in the treasury, or it shall not be lawful to pass the said ordinances.

See Section 13, Article IV.

This section refers to the general current revenues of the city derived from taxation over which the mayor and common council have control and which they can apportion and appropriate to the various exigencies incident to the conduct of the city's affairs. (*Pryor vs Kansas City*, 153 Mo. 135.)

Distinction between apportionment and appropriation. Apportionment does not place money in a fund beyond the reach of the mayor and council. It may be revised or altered by ordinance as often during the fiscal year as the mayor and council shall deem necessary. As long as money apportioned to any fund remains in treasury unappropriated it is within reach of mayor and council for legitimate purposes.

(*State ex rel. vs Mayor, Etc., of Kansas City*, 58 Mo. App. 124.)

City not bound by contract until definite amount of money shall be appropriated. (*Mister vs City of Kansas*, 18 Mo. App. 217.)

This section has no application to case where city has committed a tort. (*Smith vs St. Joseph*, 122 Mo. 643.)

Nor to contract covering a series of years upon which the obligation to pay may arise as a thing contracted for is furnished. (*Water and Light Co. vs City of Lamar*, 128 Mo. 188; *Water Co. vs Aurora*, 129 Mo. 540; *Water and Light Co. vs City of Lamar*, 140 Mo. 145.)

The date of indebtedness is the year in which the contract is made and not the year when the work is completed. (*Trask vs Livingston County*, 210 Mo. 582.)

Injunction lies to restrain illegal diversion of public funds about to be made by municipal officers in charge thereof. Right not affected by solvency of officers. (*Black vs Ross*, 37 Mo. App. 250.)

City may be compelled by mandamus to pay judgment out of unappropriated funds. (*State ex rel. vs Kansas City*, 58 Mo. App. 124.)

Sec. 3. Public Safety and Health—Inspection.—The city, through its Mayor, or through its officers and agents, may at all reasonable times, within the city and within two miles of the city limits, enter into and examine all dwellings, lots, yards, inclosures and buildings, cars, boats and vehicles of every description, to ascertain their condition for health, cleanliness and safety; take down and remove buildings, walls or superstructures that are or may become dangerous, or require owners to remove or put them in a safe and secure condition, at their own expense; shall provide for the safe construction, inspection and repair of all private or public buildings within the city; compel persons to aid in extinguishing fires, or in the preservation of property liable to be destroyed or stolen.

See Clauses 18 and 19, Section 1, this article.

Wooden buildings not per se a nuisance and when erected while lawful so to do cannot afterward be abated because within fire limits. (*Allison vs Richmond*, 51 Mo. App. 133.)

The erection of frame building in violation of ordinance is not a nuisance per se and cannot be enjoined by private individual. (*Rice vs Jefferson*, 50 Mo. App. 464.)

City may remove building constructed within fire limits in violation of ordinance. (*Elchenlaub vs St. Joseph*, 113 Mo. 395.)

Under pretense of repairs a new building of larger dimension and in-

creased capacity cannot be erected. (*Caskey vs Edwards*, 128 Mo. App. 237.)

Power to require owners to remove or put in safe condition does not authorize an ordinance requiring the agents of owners to do so. (*St. Louis vs Kaime*, 180 Mo. 309.)

Power to regulate construction of buildings does not confer power on city to change common law rule as to lateral support between adjacent owners. (*Carpenter vs Reliance Realty Co.*, 103 Mo. App. 480.)

Inspection of building is a police regulation. Inspection fee is not a tax upon property. (*State vs Vickers*, 186 Mo. 103.)

Sec. 4. Ordinances—Style of—Originate in Either House.—The style of ordinance passed in pursuance of this Charter shall be "BE IT ORDAINED BY THE COMMON COUNCIL OF KANSAS CITY." Ordinances may originate in either house, and may be amended or rejected by either house.

Provisions relating to mere form of ordinance are directory only unless it is expressly or impliedly declared that

ordinance shall be void if prescribed form be not pursued. (*State ex rel. vs Wilder*, 211 Mo. 305, l. c. 317.)

Ordinance is not void because enacting clause does not follow form if charter is silent as to such irregularity. Provision that no bill shall contain more than one subject not applicable to ordinances. (*City of Tarkio vs Cook*, 120 Mo. 1; *St. Louis vs Liessing*, 190 Mo. 464.)

Ordinance is not invalid because or-

daining clause is omitted. (*St. Louis vs Foster*, 52 Mo. 513; *Cape Girardeau vs Riley*, 52 Mo. 424.)

Distinction between motion, resolution and ordinance. Essentials of ordinance. (*Rumsey Mfg. Co. vs Schell City*, 21 Mo. App. 175; *Mulligan vs City of Lexington*, 126 Mo. App. 715.)

Sec. 5. Ordinances—Passage—Signing—Amending—Approval—Veto.—No ordinance shall be deemed passed by either house until it is signed by the presiding officer thereof, and he shall immediately sign it in open session, and the clerk shall, as soon as possible, transmit the same to the other house; and if the ordinance shall be passed by such other house without amendment, it shall be immediately signed in open session by the presiding officer thereof and be thereafter presented to the Mayor. If it be amended in such other house, it shall be immediately signed by the presiding officer thereof in open session and returned to the house from which it came, and if the amendment is there concurred in, it shall be immediately signed by the presiding officer of the house so concurring and be thereafter presented to the Mayor. If the Mayor approve any ordinance, he shall sign it; if not, he shall return it to the City Clerk with his objections, and the City Clerk shall, at the next session of the house in which it originated, return it to such house. If in either house any member shall object that any substitution, omission or insertion has occurred, so that the ordinance proposed to be signed is not the same in substance and form as when considered and passed by the house, such objection shall be passed upon by the house, and, if sustained, the presiding officer shall withhold his signature until the proper correction is made.

Article IV, Section 37 of State Constitution contains similar provisions in regard to state legislation.

Provision that ordinance shall be signed by presiding officer in open session held mandatory but note difference in language of charter provision. (*Barber Asphalt Co. vs Hunt*, 100 Mo. 22; *State ex rel. vs Mead*, 71 Mo. 266; *Construction Co. vs Loevy*, 64 Mo. App. 430, 1. c. 436.)

The duties of presiding officer are legislative and not ministerial and he cannot be compelled by mandamus to sign an ordinance nor enjoined from signing it. (*Albright vs Fisher*, 164

Mo. 56, overruling *State ex rel. vs Meier*, 143 Mo. 439.)

Effect of fraud or corrupt influence. (*State ex rel. vs Gates*, 190 Mo. 540; *Kansas City vs Hyde*, 196 Mo. 498.)

Mayor's concurrence in legislative action is essential to its validity unless ordinance is passed over his veto. (*State vs Butler*, 178 Mo. 272, 1. c. 340; *Eichenlaub vs St. Joseph*, 113 Mo. 395; *State ex rel. vs Wilder*, 211 Mo. 305, 1. c. 317.)

An ordinance which purports to be signed by the mayor and is authenticated by clerk under seal of city is valid though it was actually signed by

mayor's secretary under direction of mayor. (*Porter vs Boyd Paving & Construction Co.*, 214 Mo. 1.)

Ordinance itself must be signed. Signature in journal or minutes is not official signature to ordinance. (*State ex rel. vs Wilder*, 211 Mo. 305, 1. c. 318.)

Proof of mayor's signature where the original signed by mayor is lost or destroyed. (*Knight vs Railroad*, 70 Mo. 231; *City of Rockville vs Merchant*, 60 Mo. App. 365.)

Mayor's signature will be presumed to have been rightfully and not wrongfully made. (*Water Co. vs City of Aurora*, 129 Mo. 540, 1. c. 578.)

Acts or ordinances of city are evidenced by entries in the journal. (*Stewart vs City of Clinton*, 79 Mo. 603, 1. c. 611.)

City is bound by journal whether true or false. Property owner is only bound when journal recites truthfully those things necessary to give jurisdiction. (*Paving Co. vs O'Brien*, 128 Mo. App. 267, 1. c. 283; *Sedalia vs Mont-*

gomery, 109 Mo. App. 197, certified to Supreme Court in conflict with *Knopfl vs Roofing Co.*, 92 Mo. App. 79; *Sedalia vs Scott*, 104 Mo. App. 595.)

Held in *Ball vs Fagg*, 67 Mo. 481, that city clerk's attestation of date of mayor's approval of city ordinance cannot be contradicted by parol evidence. Approved in *Cox vs Mignery*, 126 Mo. App. 669, 1. c. 679.

As to whether minutes of council or board of public improvements are admissible to show that ordinance valid on its face was not legally passed, see *Bambrick vs Campbell*, 37 Mo. App. 460, 1. c. 464; *Fruin Bambrick Co. vs Geist*, 37 Mo. App. 509.

Ordinances are entitled to the presumption indulged with respect to statutes enacted by the state legislature. Effect of alteration in journal. (*Cox vs Mignery*, 126 Mo. App. 669; *St. Louis vs Gleason*, 15 Mo. App. 25. See section 8, Article II.)

Papers attached to ordinance not necessarily a part of ordinance. (*Keating vs Skiles*, 72 Mo. 97.)

Sec. 6. Ordinances—Executive Privilege as to Items of Appropriation.—If any ordinance presented to the Mayor contains several items of appropriation, he may object to one or more items while approving the other portions of the ordinance. In such case he shall append to the ordinance, at the time of signing it, a statement of the items to which he objects, and his reasons therefor, and return the same to the City Clerk within the same time and manner, with the same effect as to the items so objected to, and for the purpose of taking the same action in relation to each item of appropriation so objected to as provided for ordinances returned without the approval of the Mayor. But the portions of the ordinance not so objected to shall take effect upon the approval thereof.

Sec. 7. Ordinances—Veto of—Proceedings—Vote.—Every ordinance presented as aforesaid, but returned without the approval of the Mayor, and with his objections thereto, shall stand as reconsidered in the house to which it is returned. Such house shall cause the objections of the Mayor to be entered at large upon the journal, and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the ordinance pass, the objections of the Mayor thereto, notwithstanding?" The vote upon this

question shall be taken by yeas and nays, and the names entered upon the journal; and if two-thirds of all the members elected to such house vote in the affirmative, except when in this charter a larger vote is required, the presiding officer of such house shall certify that fact upon the ordinance, attesting the same by his signature, and send the ordinance, with the objections of the Mayor, to the other house, in which like proceedings shall be had in relation thereto, and if the ordinance receive a like majority of the votes of all members elected to such other house, except when in this charter a larger vote is required, the vote being taken by yeas and nays, the presiding officer thereof shall in like manner certify the fact upon the ordinance; and said ordinance shall then be and become a law, and shall further be authenticated as having become a law, by certificate signed by the City Clerk, indorsed thereon, as follows: "This ordinance, having been returned by the Mayor, with his objections thereto, and, after reconsideration, having passed both houses of the Common Council by a vote of two-thirds of the members elect of each house, has become a law this.....day of 19....,, City Clerk." And such ordinance shall be filed, recorded and preserved in the office of the City Clerk as other ordinances.

Sec. 8. Ordinances—No Action by Mayor—Becoming Law.

If any ordinance shall not be returned by the Mayor within ten days (Sundays excepted), after it shall have been presented to him for his approval, the same shall become a law in the same manner as if he had approved and signed it; and said ordinance shall be authenticated as having become a law, by certificate signed by the City Clerk, indorsed thereon, as follows: "This ordinance, having remained with the Mayor ten days (Sundays excepted), has become a law this day of 19....,, City Clerk." And said ordinance shall be filed, recorded and preserved in the office of the City Clerk as other ordinances.

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| In computing the time first day is included and last excluded. (Beau-dean vs. Cape Girardeau, 71 Mo. 392.) If, after presentation of ordinance to mayor the council adjourns sine die, before the ten days expire without | the mayor acting upon the ordinance, it does not become a law. (State ex rel. vs Carr, 67 Mo. 38; s. c. 1 Mo. App. 490; Paving Co. vs. Hunt, 100 Mo. 22.) |
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Sec. 9. Ordinances—Reviving or Re-enacting.—No ordinance shall be revived or re-enacted by mere reference to the title thereof, but the same shall be set forth at length as if it were an original ordinance.

(French vs Woodward, 58 Mo. 66; State ex rel. vs Finn, 8 Mo. App. 341.) | eral ordinance a part thereof, by proper reference. (Gallaher vs Smith, 55 Mo. App. 116.)

Sec. 10. Ordinances—Amending.—No ordinance shall be amended by providing that designated words thereof be stricken out and others inserted in lieu thereof, but the ordinance, or section amended, shall be set forth in full as amended.

Similar provision in state constitution, Art. IV., Sec. 34.

This and preceding section, how construed. (Mayor, etc., City of Boonville vs Trigg, 46 Mo. 288; Morrison

vs Railroad, 96 Mo. 602; State ex inf. vs Herring, 208 Mo. 708; Cox vs. Ry. Co., 174 Mo. 588.)

May amend by adding new sections. (State vs Thruston, 92 Mo. 325.)

Sec. 11. Ordinances—Failing to Pass—Reconsideration—Vote When Taken.—When an ordinance is put upon its final passage in either house, and, failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken and the subject finally disposed of before the house proceeds to other business.

Sec. 12. Ordinances—How Proved—Received in Evidence.—All ordinances of the city may be proved by the seal of the city. When printed or published by authority of the city, the same shall be received in evidence in all courts and places without further proof.

See Art. XVIII, Sec. 5.

Courts will not take judicial notice of ordinances, (St. Louis vs Roche, 128 Mo. 541; State ex rel. vs. Sherman, 42 Mo. 210; Mooney vs Kennett, 19 Mo. 551; Cox vs St. Louis, 11 Mo. 431; Keane vs Klausman, 21 Mo. App. 485; St. Louis vs Railroad, 12 Mo. App. 591; City of Tarkio vs Loyd, 179 Mo. 600; St. Louis vs Liessing, 190 Mo. 464, l. c. 490; St. Louis vs Bippen, 201 Mo. 528, l. c. 532; Town of Canton vs Madden, 120 Mo. App. 404, l. c. 409.)

Persons dealing with city and all who come within scope of ordinances must take notice of them. (Jackson vs Railway, 118 Mo. 199; Keating vs Kansas City, 84 Mo. 415; Palmyra vs

Morton, 25 Mo. 593; Sluder vs Transit Co., 189 Mo. 107, l. c. 132.)

Party exerting right or justifying act under ordinance should plead same. (Givens vs Van Studdiford, 86 Mo. 149, and cases there cited; City of Tarkio vs Loyd, 179 Mo. 600.)

Where ordinance is sought to be introduced merely as an evidential fact it need not be pleaded. (Bragg vs Metropolitan Street Railway Co., 192 Mo. 331, l. c. 350, 351.)

How pleaded. (State vs Dineen, 203 Mo. 628, and cases cited.)

Proof of ordinances. (Porter vs Construction Co., 214 Mo. 1; Town of Canton vs Madden, 120 Mo. App. 404.)

Ordinances contained in printed book published by authority of city, are admissible in evidence. (City of Tarkio vs Cook, 120 Mo. 1; St. Louis vs Foster, 52 Mo. 513; Apitz vs Railroad, 17 Mo. App. 419.) Must be published by authority of city council. (Cavanev vs City of Milan, 99 Mo. App. 672.)

Proof by certified copy. (Sheehan vs Owen, 82 Mo. 458.)

Proof by entries in books, journal records of municipality. (City of Clarence vs Patrick, 54 Mo. App. 462; City of Billings vs Dunnaway, 54 Mo. App. 1; Sheehan vs Owen, 82 Mo. 458.)

But see City of Rockville vs Merchant, 60 Mo. App. 365.)

Parol evidence to prove lost or destroyed ordinance. (Wells vs Pressy, 105 Mo. 164; Knight vs Railroad, 70 Mo. 231; City of Rockville vs Merchant, 60 Mo. App. 365; Stephan vs Metzger, 95 Mo. App. 609, l. c. 621; Cavanev vs City of Milan, 99 Mo. App. 672.)

Parol evidence not admissible to prove existence of ordinance, when. (Stewart vs Clinton, 79 Mo. 603.)

Revision of ordinances not new law. (St. Louis vs Foster, 52 Mo. 513; Cape Girardeau vs Riley, 52 Mo. 424.)

Sec. 13. Common Council—Abstract of Proceedings—Communications of Officers Published in Full, When.—The City Clerk shall cause a correct abstract of the proceedings of the Common Council to be made out and published in at least one newspaper in the city. This abstract shall present in brief the substance of all petitions, memorials and remonstrances, of all motions and propositions, and all ordinances, resolutions and orders, so as to exhibit their nature and import, and shall also present a brief and accurate statement of all proceedings in relation thereto. The communications of the Mayor and other city officers shall be published in full when the Common Council shall so direct; but it shall be so ordered that the expense of publishing the same document the second time shall not be incurred.

Sec. 14. Ordinances—Clerk Shall Record, When—Index.—Immediately after the adjournment of any session of either house, the City Clerk shall file in his office all the original ordinances and all resolutions which may have become laws thereat, and shall record the same in well bound books provided for that purpose by the city; *Provided*, that no ordinance shall be recorded until it shall have become a law. He shall also make a written index of the subject of each ordinance and resolution, its number and date of becoming a law, together with the record and page where found, and shall preserve the file and records in his office.

Where original ordinance is destroyed record may be used as proof. (City of Rockville vs Merchant, 60 Mo. App. 365.)

Sec. 15. Taxation—Exemption, Remission, Abatement, Reduction—Valuation.—No person or property shall be exempted or released from any burden imposed by or according to law. No general or special tax or assessment, or interest or penalty thereon.

shall be remitted or abated, or the right to enforce payment thereon be released, except in correction of clerical errors. After the levy of any tax, neither the amount thereof nor the valuation of any property for the levy shall be reduced except only in the correction of clerical errors.

Laws exempting property other than that enumerated in the constitution are void. (*Westport ex rel. vs McGee*, 128 Mo. 152; *Copeland vs St. Joseph*, 126 Mo. 417; *Kansas City vs Medical College*, 111 Mo. 141; *Birch vs City of Plattsburg*, 180 Mo. 413.)

Residence kept and maintained for occupancy of bishop of church is used for purposes purely charitable and exempt from taxation. (*Bishop's Residence Co. vs Hudson*, 91 Mo. 671; see *Farmers' & Merchants' Bank of Jamesport vs Longfellow*, 96 Mo. App. 385.)

Common council is forbidden to

compromise city taxes, and cannot ratify a compromise made by county court. (*Kansas City vs Railroad*, 81 Mo. 285; *State vs Railroad*, 75 Mo. 208.)

Exemption from taxation provided by statute and constitution of certain property when "used exclusively for religious worship, for schools and for purposes purely charitable," does not exempt personal property. (*Kansas City vs. Medical College*, 111 Mo. 141.)

So also real estate of cemetery company is exempt but personal property is not. (*State ex rel. vs Casey*, 210 Mo. 235.) See notes to Art. V.

Sec. 16. Sidewalks—Curbing—Guttering, Etc.—Care of by Owner—Police Regulation.—The owners of real property may be required, under rules and regulations to be prescribed by this Charter and by ordinance, to make repairs of sidewalks, curbing and guttering, or any of them, in front of their property, and on the adjoining side of the street or avenue, and of alleys in the rear or on the adjoining side thereof, and owners, occupants or tenants may be required to keep sidewalks clean and free from ice, snow, earth or other substances, and sprinkle the street in front of property owned or occupied by them and on the adjoining side of the street or avenue, and also to clean the alleys in the rear of such property or adjoining the same, and to keep such streets, avenues and alleys free from filth, dirt and rubbish; such rules and regulations shall be deemed police regulations, and violations thereof may be punished by fine or imprisonment or both; and any such owners, occupants or tenants, or any person having control of any land or ground, who shall allow or maintain thereon weeds or any rank vegetable growth, may be required to cut, trim and remove the same.

The Common Council may, by ordinance, declare any such weeds or other rank vegetable growth to be a nuisance, and provide for the abatement of the same at the expense of the owner of such property, in any manner prescribed in this Charter or ordinance passed pur-

suant thereto, for the abatement of nuisances. Such rules and regulations shall be deemed police regulations, and violations thereof may be punished accordingly by fine or imprisonment, or both.

Abutting property owner not liable to city for damages paid for injuries by falling on ice on sidewalk notwithstanding ordinance requiring owner to keep walk free from ice and snow. (*St. Louis vs. Life Insurance Co.*, 107 Mo., 92.)

Duty of city to keep streets and sidewalks in safe condition, cannot be evaded by ordinance requiring adjacent owners to keep same free from snow. (*Norton vs St. Louis*, 97 Mo. 537.)

Slippery condition of sidewalk from natural causes such as rain, will not be charged to fault of city. (*Fairgrieve vs Moberly*, 39 Mo. App. 31.)

Liability of abuttor. The abutting owner as such owes no duty to maintain street or sidewalk in front of premises and is not responsible for any defects therein which are not caused by his own wrongful act. He may recover for an injury arising from defect in front of his own property. Duty to remove snow and ice from the sidewalk incidentally discussed. (*Ford vs Kansas City*, 181 Mo. 137, 1. c. 147; *Beck vs Brewing Co.* 167 Mo. 195; *Lucas vs Railroad Co.*, 174 Mo., 270.)

Abutting owner may, however, become liable and jointly liable with city

for unsafe condition of sidewalk. Liability does not arise from fact that he is owner of property abutting sidewalk but from the fact that he is instrumental in causing the condition either by his willful act or negligent omission. Liability growing out of extraordinary use of sidewalk for private convenience. (*Perrigo vs St. Louis*, 185 Mo. 274, 1. c. 286, 287 and cases there cited.)

No contribution between tortfeasors unless they have acted jointly or by concert of action. (*Paddock Hawley Iron Co. vs. Rice*, 179 Mo., 480.)

Validity of ordinance is question for the court and not jury. (*Fruin Bambrick Co. vs Geist*, 37 Mo. App. 509.)

In passage or attempted passage of an ordinance city is engaged in exercise of legislative powers and is not liable to one suffering injury in consequence of nonexercise or defective exercise of such powers. (*Keating vs City of Kansas*, 84 Mo. 415, see Art. I, Sec. 1.)

Persons dealing with city must take notice of legality of its ordinances. (*Keating vs City of Kansas*, 84 Mo., 415; *Jackson vs Railway*, 118 Mo. 199.)

ARTICLE IV.

MUNICIPAL OFFICERS.

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Section 1. Chief Executive Officer, Mayor—Election—Term of Office—Authority.—The chief executive officer of the city shall be the Mayor, who shall be elected by the qualified voters of the city and shall hold his office for a term of two years and until his successor shall have been duly elected and qualified. The executive and administrative authority of the city shall be vested in him, excepting only the authority by this Charter vested in or allowed by ordinance to be conferred upon other officers or the various departments.

As to who are officers, suspension and removal of officers, see note to Section 25.

A corporation can act only through its officers. (St. Louis vs Armstrong, 56 Mo. 298.)

The officers of a city have such powers, and only such powers, as are conferred upon them by charter. (Forry vs Ridge, 56 Mo. App. 615.)

Permit from mayor alone to occupy street confers no authority. (Lockwood vs Railroad Co., 122 Mo. 86, 1. c. 95.)

Immunity from judicial control, appertaining to office of governor of state or presidency of United States does not attach to mayoralty of city. (State ex rel. vs Noonan, 59 Mo. App. 524.)

Mandamus proper remedy to compel mayor to revoke permits issued by him in violation of municipal ordinance. (State ex rel. vs Noonan, 59 Mo. App. 524.)

Mayor has no authority to appoint attorney so as to make city liable for services. (Carroll vs St. Louis, 12 Mo., 444.)

Sec. 2. Mayor—Qualifications.—No person shall be Mayor who has not resided in the territory embraced within the city limits for the five years next preceding the date of his election, and who does not possess the qualifications of a member of the Upper House of the Common Council as hereinbefore defined; nor shall any person continue in the office of Mayor who shall have ceased to possess any of the said qualifications.

Sec. 3. Removal From Office.—The Mayor may be removed from office for any misdemeanor or other offense, by a concurrent vote of two-thirds of both houses of the Common Council elect, and the yeas and nays shall be entered upon the journal of each house.

Sec. 4. Mayor—Duties and Powers—To Appoint City Officers—Consent of Upper House by Majority Vote—May Remit Fines.—The Mayor shall take care that the laws of the State, the provisions of this Charter and the ordinances of the city are enforced. He shall, from time to time, give the Council information relative to the state of the city and shall recommend to their consideration such measures as he shall deem expedient and for the advantage of the city. He shall have power to appoint, in the manner provided by this Charter, all city officers, agents and employes not elected by the people or otherwise appointed. In all cases where by this Charter, or any ordinance of the city, the Mayor is authorized to appoint any officer, and such appointment is required to be confirmed by the Upper House of the Common Council, it is hereby made his duty to make such nomination within such time as may be prescribed by ordinance. If the Upper House of the Common Council shall refuse its consent to any such nomination made by the Mayor, he shall, within five days, nominate another person to fill such office. If he fail to make a nomination within that time, his power of appointment shall cease during the remainder of the term for which such officer is to be appointed, and the said Upper House of the Common Council shall appoint a suitable person to fill the office during the term.

The Mayor may, upon good cause shown, and subject to the provisions of this Charter in reference to the Board of Pardons and Parole, remit fines, forfeitures and penalties accruing from or im-

posed for the violation of any city ordinance, but such remission shall be effective only upon report of the same to the City Comptroller.

When the consent of the Upper House of the Common Council is required by this Charter to the appointment of any officer, such consent can only be given by a majority of the Upper House of the Common Council elect, voting for such appointment.

Statutory powers and duties of mayor. R. S. 1899, Secs. 2132, 2135, 2136, 2139, 2150; R. S. 1909, Secs. 4686, 4689, 4690, 4693, 4694.

Mandamus by private citizen to compel officer to enforce ordinance. (State ex rel. vs Francis, 95 Mo. 44.)

Constitutional provision that except as otherwise provided in constitution itself no term of office shall exceed four years does not apply to an office, the term of which continues during pleasure of appointing power. (State ex rel. vs Johnson, 123 Mo., 43.)

Officers appointed at pleasure of appointing power are removed in same way. (State ex rel. vs Johnson, 123 Mo. 43, l. c. 50; State ex rel. vs Hawes, 177 Mo. 360.)

Authority of mayor to remit fine can only be exercised after fine has been imposed. (State ex rel. vs Noonan, 59 Mo. App., 524.)

Permit from mayor to remain in city during good behavior is neither a pardon nor remission of fine. (Ex parte Higgins, 14 Mo. App. 601.)

Sec. 5. President of Upper House Perform Duties of Mayor, When—Compensation.—The President of the Upper House of the Common Council shall perform the duties of Mayor whenever and so long as the Mayor is absent from the city, or from any cause is unable to perform his official duties. If the Mayor and President of the Upper House are both absent from the city, or otherwise disabled from performing the duties of Mayor, the Speaker of the Lower House of the Common Council shall, for the time being, discharge the duties of such office, and the compensation of the President or Speaker, while acting as Mayor, shall be fixed by ordinance.

No deduction can be made from the salary of the mayor because of his absence from the city on private business. Nor is this holding in conflict with the clause in the city's charter

that another officer, during his absence, shall be acting mayor, and "receive the same compensation as the mayor." (Bates vs St. Louis, 153 Mo. 18.)

Sec. 6. Mayor—Power Over Officers—Ex-Officio Member of Appointed Boards—Not to Vote Therein.—The Mayor shall have power, when he deems it necessary, to require any officer of the city to exhibit his accounts or other papers, and to make report in writing touching any subject he may require pertaining to his office. He shall ex-officio be a member of all appointive boards, but without the right to vote therein.

Sec. 7. Appointive Officers—Appointment and Confirmation—Term of Office—Duties—First Appointments.—There shall be a City Counselor and City Auditor who shall be appointed by the Mayor. There shall be a City Clerk who shall be elected by the two houses of the Common Council in joint session. There shall be a City Assessor and a Purchasing Agent who shall be appointed by the Mayor, by and with the advice and consent of the Upper House of the Common Council. All of said officers mentioned in this section shall hold their offices for a term of two years, unless sooner removed, and in all cases until their successors are appointed and qualified. All of the officers mentioned in this section shall perform such duties as may be prescribed by this Charter, or any ordinance of the city, pursuant thereto; *Provided, however,* that the City Counselor, City Clerk and City Assessor in office at the time this Charter goes into effect shall continue in office until the third Monday in April of the year 1909, in all respects as though appointed hereunder, and the first appointment of the City Counselor shall be for a term ending on the third Monday in April of the year 1910. The City Auditor in office at the time this Charter goes into effect shall hold office hereunder until the third Monday in April of the year 1910, subject to the terms of this Charter in every respect as though he were appointed to such office hereunder, and the first appointment of a City Auditor for the term beginning the third Monday in April, 1910, shall be for one year only.

Mayor Failing to Appoint Within Ten Days.—In case the Mayor fails to make any appointment provided for by this Charter for ten days after it becomes his duty to make such appointment, the office shall be filled by a majority vote of the members elect of the Upper House of the Common Council.

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| Duties of city counselor, see Sec. 21. | removal of officers, see Sec. 25. (State ex Inf. vs Lund. 167 Mo. 228.) |
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For tenure of office, suspension and

Sec. 8. Comptroller and Treasurer, Elective Offices—Terms of Office—Duties.—There shall be a Comptroller and a Treasurer, and a Judge of the Municipal Court, who shall be elected by the qualified voters of the city, who shall hold their offices for a term of two years, and in all cases until their successors have been duly elected and qualified, and who shall, in addition to the duties prescribed in this Charter, perform such other duties as may be provided by ordinance, pursuant thereto.

Sec. 9. Vacancies in Elective Offices—How Filled.—Whenever a vacancy shall occur in any office provided by law to be filled by election by the qualified voters of the city, except members of the Common Council, it shall, except as otherwise provided in this Charter, be filled for the remainder of the term by election by joint ballot of the two houses of the Common Council sitting in joint session, but no member of either house of the Common Council shall be eligible for election. Within five days after such vacancy occurs it shall be the duty of the President of the Upper House to convene said joint assembly. Any such vacancy, except in the office of Mayor, may be filled temporarily by appointment by the Mayor until a successor has been duly elected as last aforesaid, and qualified.

Present City Comptroller and Treasurer.—The City Comptroller in office at the time this Charter goes into effect shall be the first Comptroller, as if elected hereunder, to hold office, however, until the third Monday in April, 1909, and his successor shall be appointed by the Mayor for the term ending the third Monday in April, 1910. At the general city election to be held in 1910 a Comptroller shall be elected to serve for two years. The Treasurer of Kansas City in office the time this Charter goes into effect shall be the first Treasurer, as if elected hereunder, for the term ending on the third Monday of April, 1910.

Police Judge to Retain Office Until General Election.—The Police Judge of Kansas City in office at the time this Charter goes into effect shall exercise all the powers and perform all the duties as Judge of the Municipal Court, as if elected hereunder, until a Judge of the Municipal Court shall be elected at the general city election held in April, 1910.

An office is vacant within legal intendment and for all purposes of election, or appointment as well, when official term of occupant has expired, as in case of his death, resignation or removal, provided provision is made by law for filling office by such appointment or election. (State ex rel. vs Thomas, 102 Mo. 85.)

Where legal election is held and person elected fails to qualify there is no vacancy in the office and if such elect-

ed person dies without having qualified, the incumbent holds over to the time fixed by law for the election of his successor. (State ex inf. vs. Dabbs, 182 Mo. 359.)

An office newly created becomes ipso facto vacant in its creation. Appointment to fill vacancy may be provided for in act creating office. (State ex inf. vs. Burkhead, 187 Mo. 14.)

Sec. 10. Municipal Court of Kansas City—Judge of—Qualifications—Divisions of Court—Powers—Jurisdiction.—There is

hereby created a court not of record to be known as the Municipal Court of Kansas City. Such court shall be presided over by a judge who shall, at the time of his election, have been for five years a member in good standing of the bar of Jackson County, Missouri. The city may, by ordinance, divide the Municipal Court into two or more divisions, prescribe the time and place of holding each of such divisions, the territorial district of the city within which each division shall exercise jurisdiction, and provide for the election, at any general election, of additional judge or judges to preside over such additional division. When such Municipal Court is divided into divisions, each of such divisions shall possess the same powers and jurisdictions, except as to territorial limits; and any judge of any division may preside in any other division when required by ordinance so to do. Such court, or each division thereof, shall have a clerk appointed in accordance with the Civil Service rules in this Charter provided, whose duty shall be to file all proceedings therein, issue all process and perform such duties as may be required by ordinance. The Municipal Court and each division thereof shall have jurisdiction of all cases arising under any provision of this Charter or any ordinance of the city, and shall likewise exercise such jurisdiction as may be delegated to it by the general law of the State of Missouri.

Jurisdiction Exclusive or Concurrent With Circuit Court, When.—In suits for the collection of taxes, or for the enforcement of special tax bills, and in proceedings for taking and damaging private property, for the establishment of bill board restrictions and other easements, and for ascertaining damages caused by change of grade, or other exercise of the power of eminent domain, the jurisdiction of the Municipal Court shall be concurrent with the Circuit Court of Jackson County, Missouri. In all other cases, the jurisdiction of the Municipal Court shall be exclusive.

Persons Arrested, Tried in Municipal Court, When.—Whenever a person shall be arrested by a policeman for an offense against the city, which is also an offense against the State, he shall be tried in the Municipal Court.

Appeals—Jury.—Appeals may be taken from the Municipal Court to the Circuit Court of Jackson County, Missouri, in all cases, except the imposition of fines or penalties for the

breach of any city ordinance, in which case the appeal shall be to the Criminal Court of Jackson County. The Municipal Court shall have and exercise the powers of a Circuit Court for the preservation of order and enforcing process issued in the course of proceedings may summon and compel the attendance of witnesses, and when, by this Charter, a jury is allowed, may summon and compel the attendance of jurors, pass on the competency of evidence, and instruct the jury on questions of law. The Common Council of the city may, by ordinance, regulate the practice in said court in a manner not inconsistent with this Charter or the Constitution and laws of the State of Missouri. The Judge or Judges of the Municipal Court shall be ex-officio Justices of the Peace, and have and exercise, in addition to any jurisdiction conferred by this Charter, such powers and jurisdiction as may be delegated to them by any law of the State of Missouri.

Money Paid for Fines, Etc.—The Municipal Court, or the Clerk thereof, shall pay over to the City Treasurer, daily, all money collected from fines, penalties or other source.

Authority conferred on city of St. Louis to establish municipal courts authorized it to establish first district police court. (Ex parte Kiburg, 10 Mo. App. 442.)

Legislature may provide that police judge shall be ex officio justice of the peace. (Frost vs. Wilson, 70 Mo., 664.)

Kansas City given power by statute to impose and enforce fines and penalties. No fine to exceed \$500.00 and imprisonment not to exceed twelve months. (R. S. Mo. 1899, Sec. 6169; Amended Laws 1901, p. 79; R. S. 1909, Sec. 9764.)

Fines and Penalties see Art. III, Sec. 1, Cl. 42.

Legislature may confer exclusive power upon municipality to punish misdemeanors committed within corporate limits. (State vs Gordon, 60 Mo. 383; Kansas City vs Neal, 49 Mo. App. 72.)

But when right is not clearly surrendered to municipality each jurisdiction may have and enforce laws concurrently. (State vs Kessels, 120 Mo. App. 233, l. c. 237, and cases there cited.)

If municipality refuses to carry its

granted powers into effect it cannot be compelled to do so. (Tritz vs. Kansas City, 84 Mo. 632.)

No information is required in action in municipal court to impose penalty for violation of ordinance. (City of Kirksville vs Munyon, 114 Mo. App. 567.)

Repeal of an ordinance pending prosecution under it operates to release defendant unless otherwise provided in repealing ordinance. (City of Kansas vs Clark, 68 Mo. 588; St. Louis vs Wortman, 213 Mo. 131.)

But aliter where repealing ordinance provides that forfeiture should remain unaffected. (City of Monett vs Hall, 128 Mo. App. 91.)

Violation of municipal police regulations are not crimes within meaning of that term as used in constitution but are mere prosecutions to recover penalty for violation of city ordinance. Arraignment and plea are unnecessary. Defendant is not entitled to trial by jury. (Delaney vs Police Court, 167 Mo., 667; In re Ada Jones, 90 Mo. App., 318.)

Acquittal in prosecution by state is

not bar to civil action by city. (Town of Canton vs McDaniel, 188 Mo. 207.)

Police officers entitled to witness fees and such fees cannot be remitted by municipal court. (R. S. Mo. 1899, Sec. 1486; R. S. 1909, Sec. 3459.)

City may appeal from judgment of acquittal. (Kansas City vs Clark, 68 Mo. 588; Kansas City vs Muhlback, 68 Mo. 638; St. Charles vs Hackman, 133 Mo. 634; City of Poplar Bluffs vs Hill, 92 Mo. App. 17.)

Appeal will not lie from judgment on plea of guilty or by confession. (Mexico vs Geiger, 53 Mo. App. 440; Edina vs Deck, 47 Mo. App. 234.)

Recognizance on appeal should be to effect that defendant shall appear in appellate court, obey every order that

shall be made in the premises, and not depart without leave of court. And conditions in a recognizance that defendant should pay any judgment that might be rendered against him, not binding on the sureties. (Howlett vs Turner, 93 Mo. App. 20, but see Kansas City vs Neal, 49 Mo. App. 72; Stevens vs Kansas City, 146 Mo. 460.)

Conviction under city ordinance will not be sustained on appeal where ordinance was not read in evidence. (St. Louis vs Roche, 128 Mo. 541.)

Power of police judge to amend transcript on appeal where proceedings are governed by law in regard to justices of the peace. (Stansberry vs Proctor, 48 Mo. App. 56.)

Sec. 11. Comptroller—Supervision Over Revenues—Other Property—Over Acts of Fiscal Concerns—Of All General Accounts—Over Accounting Officers—Report Delinquencies.—It shall be the duty of the Comptroller to exercise a general supervision over the collection and return into the city treasury and disbursement of all the revenues and other moneys of the city, and over the proceedings therefor; over all property, assets and claims, and over the custody, sale or other disposition thereof. He shall see that all proper and legal proceedings are had to recover, keep and manage such property and other interests, and that all proper rules and regulations are prescribed and observed in relation to all accounts, settlements and reports regarding the fiscal concerns of the city. He shall see that no appropriation of funds is overdrawn or misapplied, and that no liability is incurred, nor money or property of the city disbursed or disposed of contrary to the letter and spirit of law. He shall have charge of all the general accounts of the city, and prescribe the method and manner of keeping books of general as well as of subsidiary accounts in all of the offices and departments, and the form of receipts and vouchers. He shall have general supervision and direction over all accounting officers, and shall have access to all books and records of the depositaries and fiscal agents of the city. He shall promptly report in writing to the Mayor, and to the Common Council, any default or delinquency he may discover.

Officers Failing to Act Guilty of Misdemeanor—System of Accounts.—Whenever it shall be found that any officer, clerk or

employee shall have refused or failed to keep any of the books or records, or shall have refused or failed to transmit vouchers or papers pertaining to or in support of accounts, in the manner prescribed by Charter, or ordinance, or in manner necessary to support or verify accounts as the same may have been required by the Comptroller to be kept, such refusal or failure shall constitute a misdemeanor, punishable by fine of not less than One Hundred nor more than Five Hundred Dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment. The Comptroller may administer oaths and may require all settlements, returns, reports and claims to be verified by affidavit. A complete double-entry system of general accounts shall be devised and installed, which shall contain a complete classification and summary, (1) of all current revenues accrued to the city, (2) of all expenses incurred by the city, (3) of all resources and liabilities of the city, and the accounts of resources and liabilities shall be so classified that at any time the city may know (a) what liabilities are current (due or to become due within the fiscal period), and what assets may be made available to meet said current liabilities, and (b) what liabilities have been incurred and appropriations made for permanent properties and improvements, and the fund on hand for permanent properties and improvements, and properties acquired for continuous use, and also (4) of every levy of special taxes and assessments and the collections and disbursements on account thereof, and other payments and discharges thereof, showing at all times the condition of every account arising from such taxes and assessments.

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| Collection of Revenues, see Art. V. | is vested in city council. Art. I, Sec. |
| Management and control of finances | 1; Art. III, Sec. 1, Cl. 1 and notes. |
| and all property belonging to the city | |

Sec. 12. Money Appropriated by Ordinance—Paid Out, How—Approval of Common Council, When.—After money shall have been duly appropriated by ordinance, whether generally to the use of a department or for a special purpose, the same may be paid out by the officer or department having charge of the expenditure by requisition upon the Auditor for warrants upon the Treasurer, without further action of the Common Council; Provided, however, That in the case of the Board of Fire and Water Commissioners, no contract shall be made

binding the city when the consideration or total liability is more than Five Thousand Dollars, unless such contract be approved by the Common Council, and in case of all other departments, contracts may not be made when the consideration or total liability is more than Twenty-five Hundred Dollars, without such approval.

Claims—How Approved and Paid—Warrants Drawn by Auditor.—Claims against the city shall, before payment, be approved by the head of the department, or the President of the Board to which the expense is chargeable, and if not chargeable to any department, they shall be approved by the Mayor, and shall also be approved by the officer or agent who incurred the obligation, and when the claim is for materials, goods or supplies, shall bear a certificate as to quantity and quality signed by the person who first received such materials, goods or supplies on behalf of the city. The City Auditor shall examine such claims and see that they are arithmetically correct, are in proper form, and that they bear the approval of the persons required by law, and when correct and in form and duly approved, he shall, upon the requisition of the department or the Mayor, as the case may be, draw warrants on the City Treasurer in payment of the same.

Warrants Countersigned by Comptroller—Money in Treasury, When Considered Duly Appropriated—Payment of Bonds, Interest, Etc.—It shall be the duty of the Comptroller to countersign warrants for all claims justly due and owing from the city, but he shall not countersign any warrant unless there be, at the time, money in the treasury duly appropriated by ordinance and properly applicable to the payment thereof. Money in the treasury, standing in a sinking fund or resulting from a levy of taxes for the payment of bonds or interest, shall be considered duly appropriated for the payment of the particular bonds or interest for which levied or accumulated, without further ordinance to that effect, and money in special trusts paid into the treasury pursuant to condemnation proceedings or resulting from special taxes or assessments shall be considered duly appropriated to the purpose for which collected, received or held, and may be paid out accordingly. For the payment of bonds of the city or interest thereon, or for any money in special

trusts as aforesaid, the Comptroller shall, with the written approval of the Mayor, make a requisition upon the Auditor for a warrant on the Treasurer for that purpose.

Sec. 13. Making Contracts Binding City, Restricted—Comptroller May, When—Money, How Set Aside—Violations of Restrictions—Misdemeanor—Punishment.—Neither the Common Council nor any department or officer of the city, except the Comptroller, in a single instance in this Charter provided, shall have authority to make any contract or do any act binding the city, or imposing upon the city any liability to pay money until a definite amount of money shall first have been appropriated, or set aside by a department out of money already appropriated for the liquidation of all pecuniary liability of said city under said contract, or in consequence of said act; and the amount of said appropriation, or money so set aside, shall be the maximum limit of the liability of the city under any such contract or in consequence of such act, and said contract or act shall be *ab initio* null and void as to the city for any other or further liability; *Provided, however,* That nothing in this Charter contained shall preclude the city from making contracts for the period not exceeding ten years for the disposition of garbage or offal, under the regulation contained in Article XIV of this Charter, nor from making contracts for the cleaning and sprinkling of streets, alleys and public places, or any part thereof, for periods not exceeding five years, nor from making contracts for repairing or maintaining streets for periods not exceeding three years. Money shall be considered as so set aside by a department only when upon order of the department the Comptroller shall transfer the amount to a special account for the purpose of the special contract, and shall give his statement in writing to that effect. Any member of the Common Council, who shall knowingly vote for any appropriation of money or the making of any contract in violation of this Charter, or any officer of the city who shall knowingly do any act to impose upon the city any pecuniary liability in excess of the authority in the Charter limited, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than One Hundred nor more than One Thousand Dollars or imprisonment in the county jail not less than one month nor more than one year, or by both such fine and imprisonment.

Contracts of city and power of city
to contract, see Article I, Section 1,
and Article III, Section 1, Clauses 1

and 42.

This section refers to the general
current revenues of the city derived

from taxation over which the mayor and common council have control and which they can apportion and appropriate to the various exigencies incident to the conduct of the city's affairs. (Pryor vs Kansas City, 153 Mo. 135.)

Distinction between apportionment and appropriation. Apportionment does not place money in a fund beyond the reach of the mayor and council. It may be revised or altered by ordinance as often during the fiscal year as the mayor and council shall deem necessary. As long as money apportioned to any fund remains in treasury unappropriated it is within reach of mayor and council for legitimate purposes. (State ex rel. vs Mayor, Etc., of Kansas City, 58 Mo. App. 124.)

City not bound by contract until definite amount of money shall be appropriated. (Mister vs City of Kansas, 18 Mo. App. 217.)

This section has no application to

case where city has committed a tort. (Smith vs St. Joseph, 122 Mo. 643.)

Nor to contract covering a series of years on which the obligation to pay may arise as a thing contracted for is furnished. (Water and Light Co. vs City of Lamar, 128 Mo. 188; Water Co. vs Aurora, 129 Mo. 540; Water and Light Co. vs City of Lamar, 140 Mo. 145.)

The date of indebtedness is the year in which the contract is made and not the year when the work is completed. (Trask vs Livingston County, 210 Mo. 582.)

Injunction lies to restrain illegal diversion of public funds about to be made by municipal officers in charge thereof. Right not affected by solvency of officers. (Black vs Ross, 37 Mo. App. 250.)

City may be compelled by mandamus to pay judgment out of unappropriated funds. (State ex rel. vs Kansas City, 58 Mo. App. 124.)

Sec. 14. Comptroller—Special Duties—Provide for Payment of Bonds and Interest—May Obtain Loans, When and How.—

The Comptroller is specially charged with the preservation of the credit and faith of the city in relation to its bonded indebtedness. At the first meeting of the Common Council in each fiscal year, he shall certify to the Lower House the amount of money necessary to be raised by taxation for the payment of bonds and interest maturing, during the current fiscal year, and also the amount necessary to meet all obligations of the city on account of sinking funds for bonds outstanding, setting forth fully in detail the condition of the entire bonded indebtedness and sinking funds and showing the amount of money needed for each series, or issue of bonds, for interest, for principal, and for sinking fund. If necessary to preserve the public credit, the Comptroller may anticipate any part of the annual revenue levied for the purpose of paying bonds and interest, and may, with the approval of the Mayor, obtain loans on the credit and faith of the city to meet bonds interest about to fall due.

Sec. 15. Comptroller—Bonds—Sinking Funds—To Keep Description and Account—To Sell or Exchange Securities, When—Sinking funds for bonds of the city may be invested by the

Comptroller in bonds of the United States, of the State of Missouri, of the County of Jackson, of the School District of Kansas City, or of Kansas City, on the best terms obtainable, and he shall at all times keep a full and accurate description and account of all bonds outstanding in each and every sinking fund. The Comptroller, by and with the consent of a majority of the members-elect of the Upper House of the Common Council, shall sell the securities belonging to a sinking fund, or any part of them, on the best terms obtainable, when the proceeds thereof may be needed for the payment of bonds, and he may, with such consent, exchange any bonds belonging to a sinking fund for bonds of the city whenever such exchange is advantageous to the city. Any moneys remaining in a sinking fund after payment of the entire bonded debt for which it was accumulated shall be paid into the general fund.

Bonds, Etc., Paid, Cancelled by Comptroller, How.—Whenever any bonds, interest coupons or other written or printed evidences of debt of the city shall be paid and discharged they shall be cancelled by the Comptroller in the presence of a committee of the Lower House of the Common Council, and such committee shall report to such House a full and detailed description of said bonds so cancelled and burned, which report shall be entered upon the minutes of the Lower House in full.

Sec. 16. Departments and Officers—To Make Annual Financial Report to Comptroller—Comptroller to Make Annual Report to Common Council.—All departments of the city and all officers keeping accounts shall, within ten days after the close of each fiscal year, make reports to the Comptroller showing the financial transaction for such year, in such form and detail as may be required by ordinance, and shall make such other reports as he, or either House of the Common Council, may, from time to time, require. The Comptroller shall make annual reports to the Common Council covering the financial affairs of the city for each fiscal year, within fifteen days after the close thereof, transmitting with such report the reports for the year of all departments and officers; shall make regular intermediary reports as may be prescribed by ordinance, and shall make special reports whenever requested by the Mayor or by either House of the Common Council, on the financial

condition of the city. The Comptroller's report and such portions or summaries of the other reports as may be required by ordinance shall be printed within thirty days for distribution. He shall provide and keep in his office reliable and complete tables of all property and assets of the city, all contracts, names of contractors, and names of employes, in such manner as to show the department in which they are employed, their salaries, powers and duties, and how appointed. He may, subject to the Civil Service laws, rules and regulations contained in or provided for by this Charter, appoint such deputies and clerks as may be provided for by ordinance. No person shall be elected to the office of Comptroller who has not resided in the city five years next before his election, and shall not have attained the age of thirty years.

Sec. 17. Treasurer—Powers and Duties—To Collect Taxes and Licenses, and Receive Money Due City—How Receipted—Shall Deposit all Moneys Received—Daily Report of Money Received by Treasurer and Auditor to Comptroller.—It shall be the duty of the Treasurer to receive and keep the money of the city and pay out the same on warrants drawn by the Auditor and countersigned by the Comptroller and not otherwise. He shall collect all taxes and licenses levied or charged by the city, and all moneys due the city from any source, except as otherwise provided by law, pursuant to this Charter, for collection by others; he may, subject to the Civil Service rules, laws and regulations contained in or provided by this Charter, appoint such deputies and clerks as may be provided for by ordinance, and he shall be responsible for all the acts of his deputies and clerks. All moneys belonging to the city and received by any officer or agent thereof shall promptly be deposited in the treasury and the Treasurer shall daily deposit all moneys received by him in the depository banks of the city. For all moneys received the Treasurer shall give a duplicate receipt, one of which shall be countersigned by the Auditor before delivery to the party paying, and the other shall be delivered to and retained by the Auditor. Both the Treasurer and Auditor shall daily report to the Comptroller the amount of money received into the treasury and from what source.

Sec. 18. Treasurer—Selection of Banks for Depositing City Funds—Interest on Deposits—Bond of Bank—Treasurer's Salary.—Immediately after the third Monday in April following each gen-

eral election, and whenever occasion may require, the Mayor, Comptroller and City Counselor shall select banks or banking institutions in the city, which will give a satisfactory rate of interest for a period beginning on the first day of August next ensuing and ending in one or two years, for the current deposit of the city funds estimated on daily balances and paid monthly on the first day of each calendar month; and the City Treasurer shall keep the city's funds in the banks or banking institutions so selected; *Provided, however,* That before any bank or banking institution shall be so selected or deposits made therein by the Treasurer, such bank or banking institution shall give bond in such amount as shall, from time to time, be prescribed by ordinance, with good and sufficient sureties to be approved by the Mayor and a two-thirds vote of the members-elect of the Upper House of the Common Council, for the safe-keeping and prompt payment when demanded by the Treasurer of said funds and every part thereof deposited in such bank or banking institution, and shall at all times keep the sureties on the bonds satisfactory to the Mayor and Upper House of the Common Council, and the amount of such bonds may from time to time be increased by the Mayor and Upper House of the Common Council. It shall be the duty of the Treasurer, whenever requested by the Mayor, to send a circular letter to each bank and banking institution in the city, soliciting bids for keeping the funds of the city for the term herein specified and until a new selection shall be made and the funds removed. The Treasurer shall divide said funds into three or more equal parts as near as may be practicable, as may be determined by the Comptroller, and the bids may be for one or more of such parts. The circular shall state the conditions to be complied with by the bidders and what each bid shall set forth and what security, if any, is required to accompany each bid; and that the bidder will comply with the terms thereof if accepted. Bids sent to the City Treasurer shall be sealed and marked, "Bids for City Funds," and the Treasurer shall indorse thereon the time of the receipt of the same, and he shall open the bids on the day named in the circular letter in the presence of the Mayor, Comptroller and City Counselor, who shall select and designate three or more of such banks or banking institutions as depositories of the city funds. The Mayor, Comptroller and City Counselor may accept the highest and best bids for any of said parts of said funds, except that no one bid may be accepted for more than one-third of the whole funds, or they may re-

ject all bids or accept a bid or bids for one or more of said parts, and reject the other bids; if the bid or bids for all of said funds are not accepted they shall immediately direct the Treasurer to invite new bids, in the manner hereinbefore provided, for the parts of said funds for which no bid is accepted. Interest on city funds paid by banks or banking institutions shall be credited by the Treasurer into the general fund of the city. The Treasurer shall not be responsible for any loss from any failure or default of such bank or banking institution. The Treasurer, as full compensation for his services, shall receive such salary as may be prescribed by ordinance, and shall receive no fee whatever for any services performed by him.

Sec. 19. Treasurer—Sinking Funds—Care of Bonds and Securities—Shall Report Collections to Comptroller—When Bonds or Securities Sold or Exchanged, Treasurer to Deliver Same to Comptroller on Requisition.—The Treasurer shall have the custody and care of all bonds and other securities belonging to sinking funds, and he, and the sureties on his bond, shall be liable for any loss or misappropriation of the bonds or securities or the proceeds thereof, the same as for any money of the city for which he is liable. The City Comptroller shall turn over to the City Treasurer, as soon as obtained, all bonds and securities purchased for sinking funds, taking the Treasurer's receipt therefor, which he shall carefully preserve in his office, and the fact of such delivery shall relieve the Comptroller of responsibility for any loss or misappropriation of the bonds and securities. The Treasurer shall collect said bonds and securities and the interest thereon as the same or any part thereof may become due, and shall report the collection of the same to the Comptroller. When it becomes necessary to sell or exchange bonds or securities as provided in this Charter, the Comptroller may make his requisition in writing on the Treasurer, with the written approval of the Mayor indorsed thereon, for such of the bonds and securities as he may require, and on such requisition so approved, the Treasurer shall deliver the bonds and securities to the Comptroller, taking his receipt therefor, and the fact of such delivery shall relieve the Treasurer from any responsibility on account of the bonds and securities so delivered, and transfer the same to the Comptroller and his sureties.

Sec. 20. Sinking Fund—Bonds and Securities in Hands of Treasurer, Inspected Each Fiscal Year—By Whom—Report of Inspection.—At least once in each fiscal year, and oftener if necessary, the Lower House of the Common Council, by committee, shall, without notice given, inspect and count the bonds and other securities in the custody of the Treasurer belonging to the sinking funds. Such committee shall make a detailed report to the Lower House of the Common Council of the result of the inspection and count, giving the number and amount of the bonds and other securities and their description, and such report shall be spread in full on the minutes of the Lower House of the Common Council.

Sec. 21. City Counselor—Powers and Duties.—The City Counselor shall, in person or by his assistants, appear in the Municipal Court and attend to all cases of criminal or civil nature arising therein in which the city may be a party or in any wise interested, and he shall in person, or by his assistants appear for the city in all courts in this State wherein the city may be a party plaintiff or defendant, or a party in interest, and shall perform such other duties as may be prescribed in this Charter, or by ordinance. He shall, subject to the Civil Service rules, laws and regulations contained in or provided for in this Charter, appoint such assistants, claim agents and persons to assist him in the legal business of the city as may be provided by ordinance.

Affidavit required in legal proceedings may be made by city counselor or | city attorney. (Corpenney vs City of Sedalla, 57 Mo. 88.)

Sec. 22. City Clerk—Powers and Duties—Appoint Deputies—Removal for Cause—Vacancy of Office, How Filled.—It shall be the duty of the City Clerk, in person or by deputy, to attend all meetings of each House of the Common Council, and to keep a true record of its proceedings and also to keep a record of all official acts of the Mayor, and when necessary to attest them: he shall also keep and preserve in his office the corporate seal of the city, and all records, public papers and documents of the city not belonging to any other officer. He shall be authorized to administer oaths; and copies of all papers filed in his office and transcripts from the records of the proceedings of the Common Council duly certified by him under the corporate seal of the city shall be taken as evidence in all courts of this State; and he shall perform such other duties as may

be prescribed by ordinance. He shall, subject to the Civil Service laws, rules and regulations contained in or provided for by this Charter, appoint such deputies and assistants as may be provided by ordinance. He may be removed for any cause specified in this Charter by a two-thirds vote of both Houses of the Common Council in joint session. Any vacancy in the office of the City Clerk shall be filled by election by the two Houses of the Common Council in joint session.

See Art. III, Secs. 12, 13 and 14. As to suspension and removal from Constitution Mo., Art. XIV., Sec. 7. office see Sec. 25, and note.

Sec. 23. City Auditor—Qualifications—Powers and Duties—Appoint Deputies.—The City Auditor shall be a competent accountant. He shall draw warrants upon the treasury for all payments authorized or required to be made by this Charter, or by any ordinance passed in pursuance thereof; shall countersign all receipts given by the Treasurer for money, retaining a duplicate thereof, and shall keep accounts showing at all times the condition of every fund in the treasury. He shall extend all taxes, and shall at least once in every year audit, examine, verify and prove the accounts and all documents and vouchers pertaining thereto in all departments and offices of the city where books of account are kept, and count cash on hand, and make reports immediately after such examination and proof to the City Comptroller. He shall, for such purposes, have access to all books of account and documents and vouchers pertaining to accounts in all departments and offices at such reasonable times as may be necessary to his duties. He shall perform such other duties as may be prescribed by ordinance not inconsistent with this Article. He shall, subject to Civil Service laws, rules and regulations contained in or provided for by this Charter, appoint a deputy and such assistants as may be provided by ordinance.

City warrants are not commercial paper. (*Matthis vs Town of Cameron*, 62 Mo. 504.)

Sec. 24. Purchasing Department—Purchasing Agent—His Powers and Duties—Appoint Deputies.—There is hereby established a department to be known as the Purchasing Department, which shall be in charge of the Purchasing Agent. Subject to

the Civil Service laws, rules and regulations contained in or provided for by this Charter, he may appoint such assistants as may be allowed by ordinance.

Purchase All Supplies, Etc.—Shall Make Reports.—The department shall, subject to such rules and regulations as may be prescribed by ordinance, or the terms of this Charter, purchase all goods, supplies, machinery and materials, and all things whatsoever required by the city or any department thereof, except such purchases as may, by this Charter, be authorized to be made by others. The various departments of the city shall, from time to time, make requisition upon the Purchasing Agent for such supplies, goods, materials, machinery and other things as they may need, and shall exhibit to the Purchasing Agent the statement of the Comptroller that the necessary funds have been appropriated and set aside to pay for the same. It shall be the duty of the Purchasing Agent, promptly and expeditiously, to purchase all the supplies, goods, materials and machinery, and other things required by the various departments, and so far as may be done and whenever the interests of the city will be thus promoted, to purchase goods, supplies and materials at wholesale or in bulk and pay for the same out of any funds appropriated to this department for that purpose. Whenever any goods, supplies or materials shall be required by any department, the same may be supplied, so far as possible, out of the general stores of the Purchasing Department, and when so supplied they shall be paid for by the department using them in every respect as to form and method of procedure as though the same had been purchased specially, except that the warrant in payment shall be payable to the credit of the Purchasing Department and shall be deposited in the treasury and credited to the funds of the Purchasing Department and shall be considered as duly appropriated to the uses of such department. The Purchasing Agent, upon the last day of each month, shall make full inventory and report of all goods, supplies and materials on hand and all funds remaining appropriated and unexpended in the department, and shall deliver one copy of such report to each House of the Common Council and one copy to the Mayor; and the Common Council may, from time to time, direct that any portion of funds appropriated to the Purchasing Department and standing to its credit be deducted and transferred to the general fund of the city.

(See *Verdin vs St. Louis*, 131 Mo. 26.)

Sec. 25. Mayor—Officers Suspended by Mayor and Removed by Lower House—Vacancies, How Filled.—Any officer elected by the people (not intending here to include members of the Common Council) may be suspended by the Mayor and removed by the Lower House of the Common Council for cause. Whenever the Mayor shall suspend any elected officer he shall immediately notify the Lower House of the Common Council of such suspension and cause therefor. If the same be not in session, then he shall immediately call a special session thereof in such manner as is provided for calling special sessions of the Common Council. The Mayor shall present charges against such suspended officer, who shall have the right to appear with a legal adviser for his defense, hear all proof, and make defense thereto, offering proof in his own behalf. If two-thirds of all the members-elect of such House shall, by resolution, sanction the action of the Mayor, then the suspended officer shall thereby be removed from office, but unless such action of the Mayor is sanctioned by such two-thirds vote, then such officer shall be immediately reinstated. Any officer, or the incumbent of any board appointed by the Mayor, whether appointed with or without confirmation, may be suspended by the Mayor. The Mayor shall immediately notify the Upper House of the Common Council of any such suspension and unless said Upper House shall, not later than the second session thereafter, by a two-thirds vote of the members-elect thereof, declare that such officer ought to be reinstated, the said officer shall be considered to be removed, and the Mayor shall notify him of such removal. But such officer shall be reinstated if within said time the Upper House of the Common Council shall, by a two-thirds vote, declare that he ought to be reinstated. In all cases of suspension in any such office, the Mayor may temporarily fill the office by appointment and the temporary appointee shall hold the office until the reinstatement of the suspended officer or until his final removal. In all cases of a vacancy in any such office, the Mayor shall at once appoint a proper person to fill such vacancy, and if the appointment to such office is required by this Charter to be confirmed by the Upper House of the Common Council, the Mayor shall report the name of such person to the Upper House of the Common Council in all respects as when the appointment was first made. Appointments to fill vacancies shall be for the unexpired term only.

Officers and Employees Interested in Contracts Under City, Etc., Guilty of Misdemeanor—Punishment.—If any officer or employe of the City Hall, knowingly, be directly or indirectly interested in any contract under the city, or in any work done by the city, or in furnishing any supplies for the city or any of its institutions, or in the sale of any property to or for the city, he shall be guilty of a misdemeanor and be punished upon conviction by a fine of not less than One Hundred nor more than One Thousand Dollars, or imprisonment in the county jail for not less than one month nor more than one year, or both such fine and imprisonment.

Residence of Officers—No Officer to Hold Two Appointments.—All officers of the corporation shall reside within the city limits during their continuance in office, and if any of them shall cease to reside within the city limits, his office shall be thereby vacant. No officer shall hold two appointments under the city government.

Election of city officers is governed by state law. (R. S. Mo. 1899, Chap. 102; R. S. 1909, Secs. 6090 to 6188; Art. IX, Secs. 7270 to 7396, inclusive.)

Who Are Officers.—A public officer is an individual who has been appointed or elected in manner prescribed by law, and who has a designation or title given to him by law, and who exercises the functions concerning the public assigned to him by law. (23 Amn. Eng. Ency. of Law, 322, Approved in State ex rel. vs Maroney, 191 Mo. 531, l. c. 546.)

A de facto officer is one who is in office, is recognized by the public as an officer, whose acts are acquiesced in by the public, and yet has no legal right to office. (State ex rel. vs Hawes, 177 Mo. 360, l. c. 377.)

Election commissioners are public officers. (State ex rel. vs Maroney, 191 Mo. 531.)

Commissioner of buildings, under St. Louis charter, is officer. (State ex rel. vs Wells, 210 Mo. 601; State ex rel. vs Longfellow, 95 Mo. App. 660, l. c. 666.)

Inspector of public buildings held not to be officer under St. Louis char-

ter. (Magner vs St. Louis, 179 Mo. 495; State ex rel. vs Longfellow, 95 Mo. App. 660.)

Superintendent of house of refuge, in St. Louis, is officer. (State ex rel. vs Walbridge, 69 Mo. App. 657.)

Deputy boiler and elevator inspector held to be officer under St. Louis charter and ordinances. (Gracey vs St. Louis, 213 Mo. 384.)

Superintendent of streets held to be officer under former Kansas City charter. (State ex rel. vs May, 106 Mo. 488.)

Chief engineer of city hall not an officer but mere employee. (State ex rel. vs Gray, 91 Mo. App. 438.)

In absence of act prescribing and defining duties of public officer his duties may be inferred from his employment and nature of office. (State ex rel. vs Walbridge, 69 Mo. App. 657.)

Traffic in public office is against good morals and contrary to public policy. Contract between officer and deputy appointed by him by which latter was to continue as deputy for whole period that officer should remain in office is void and no action will lie for breach of such contract. (In

re Irwin's Estate, 123 Mo. App. 508, 1. c. 513; Horstman vs Adamson, 101 Mo. App. 119.)

Removal of Officers.—By state statute officer interested in contract under city or in work done by city or in furnishing supplies for city or any of its institutions is guilty of misdemeanor. Any appointed officer becoming so interested shall be dismissed from office by mayor and mayor shall immediately suspend elective officer and report facts to council and if by two-thirds vote of council he is found so interested he shall be immediately dismissed from office. (R. S. Mo. 1899, Sec. 2346; R. S. 1909, Sec. 4877.)

Charter provision not inconsistent with statute, simply furnishes cumulative remedy. (State ex rel. vs Walbridge, 119 Mo. 383, 1. c. 389.)

Member of council is city officer within meaning of statute and is guilty of misdemeanor if he becomes interested in any contract with city and may be punished for such misdemeanor, although same statute provides for his removal from office. (State vs Kelly, 103 Mo. App. 711.)

The power to remove a corporate officer from his office, for reasonable and just cause, is one of the common law incidents of all corporations. (State ex rel. vs Walbridge, 119 Mo. 383, 1. c. 394.)

Where the charter of the city vests the power of removal of an officer for cause, in the mayor and board of aldermen of the city, such law is in harmony with the law and spirit of the constitutional provision that the General Assembly shall provide for the removal from office of county, city, town and township officers, on conviction of wilful, corrupt or fraudulent violation or neglect of official duty. (Manker vs Faulhaber, 94 Mo. 430; State ex rel. vs Walbridge, 119 Mo. 383; State ex rel. vs Wells, 210 Mo. 601.)

Power to remove includes power to suspend. (Blackwell vs City of Thayer, 101 Mo. App. 661.)

The employment and discharge of police is a matter which primarily belongs to state and is not simply matter of local concern. (State ex rel. vs Police Commissioners, 184 Mo. 109.)

A right to remove only for cause

implies that there must be reasonable notice, and specifications of the charges made, and an opportunity to be heard by the one sought to be removed, and this even where there is no express provisions to that effect, since this is implied as intended. (State ex rel. vs Walbridge, 119 Mo. 383, 394, 395; State ex rel. vs St. Louis, 90 Mo. 19; State ex rel. vs Maroney, 191 Mo. 531; State ex rel. vs Knott, 207 Mo. 167.)

Where charter, permitting removal for cause, does not specify what causes are sufficient, question is a judicial one to be determined by the court from the circumstances in each case; what would be causes as to one office might not be as to another office. (State ex rel. vs Walbridge, 69 Mo. App. 657.)

An appointment for a definite term confers upon incumbent right to serve out full official period unless forfeited by misconduct. (Horstman vs Adamson, 101 Mo. App. 119, 1. c. 124; State ex rel. vs Brown, 57 Mo. App. 199, 1. c. 204; State ex rel. vs Maroney, 191 Mo. 531, 1. c. 548.)

Where law conferring authority to make appointment is silent as to the right of removal, and there is no limitation as to tenure, the right to appoint carries with it the absolute right to remove, without notice, and at pleasure. (Horstman vs Adamson, 101 Mo. App. 119, 125, and cases there cited; State ex rel. vs Johnson, 123 Mo. 43, 50; See also Shurtleff vs U. S., 189 U. S. 311, 314.)

An officer holding over after the expiration of his term, who is a mere locum tenens until a successor is appointed, may be removed at pleasure by the appointing power, at any time without notice or cause. (State ex rel. Rife vs Hawes, 177 Mo. 360, and cases cited; see State ex rel. vs Stonestreet, 99 Mo. 361, 1. c. 377.)

Where officer derives title to office solely from ordinance, repeal of ordinance before term for which he was appointed has expired abolishes office, puts an end to his official existence and cuts off his right to salary for unexpired part of term and the power to enact an ordinance is the power to repeal. (Magner vs St. Louis, 179 Mo. 495.)

When assistants or employees may

be removed by chief. (*State ex rel. vs Longfellow*, 95 Mo. App. 660.)

Where neither charter nor ordinance makes provision for means whereby removal of appointive officer is to be effected, all means necessary pass as incidents of the grant of power of removal. (*State ex rel. vs Walbridge*, 119 Mo. 383, 394, 396.)

Specific acts complained of should be stated in record of tribunal trying officer sufficient to show jurisdiction of alleged offense; no intendments can be indulged as to jurisdiction and regularity of proceedings. (*State ex rel. vs Lupton*, 64 Mo. 415, 417.)

Cause for removal, see Article 11, Section 4.

Record of proceedings of mayor in exercising power of removal should show, in case of an appointive officer, charges sufficient in law, due notice and a trial had whereat he was permitted to be heard, and an order of removal for cause entered. (*State ex rel. vs Walbridge*, 62 Mo. App. 1. c. 164, 165.)

There is no statutory provision by which evidence taken before mayor may be preserved and made part of record. (*State ex rel. vs Wells*, 210 Mo. 601, 1. c. 621.)

Compensation of Officers.—Right of public officer to salary of his office is right created by law, is an incident to the office, not the creature of contract, nor dependent upon the fact of rendition or value of services actually rendered. (*State ex rel. vs Walbridge*, 153 Mo. 194, 203; *Bates vs St. Louis*, 153 Mo. 18 and cases cited; *Givens vs Daviess Co.*, 107 Mo. 603; *Cavanee vs Milan*, 99 Mo. App. 672; *Sanderson vs Pike Co.*, 195 Mo. 598, 1. c. 605, and cases cited.)

Compensation must be provided by law; no implied liability to pay will arise. (*Givens vs Daviess Co.*, 107 Mo. 603, 608, 609, and cases cited; so see *Garnier vs St. Louis*, 37 Mo. 554; *Jackson vs Stone*, 168 Mo. 577, 1. c. 581; *State ex rel. vs Adams*, 172 Mo. 1; *Sanderson vs Pike Co.*, 195 Mo. 598, 1. c. 605; *O'Dwyer vs City of Monett*, 123 Mo. App. 184.)

An officer has no vested right to office. In absence of constitutional restrictions the salary may be increased

or diminished during term; manner of payment may be changed and duties enlarged. (*Givens vs Daviess Co.*, 107 Mo. 603.)

And abolishing the office cuts off the right to the salary attached to it. (*Magner vs St. Louis*, 179 Mo. 495; *Primm vs Carondelet*, 23 Mo. 22.)

Officer is entitled to salary for time during which he is sick or unable to perform duties of office. (*Cavanee vs City of Milan*, 99 Mo. App. 672.)

And is entitled to salary although he neglect his official duties. (*Bates vs St. Louis*, 153 Mo. 18.)

If a city official is otherwise entitled to recover, the fact that there is not enough money appropriated to pay him will not defeat his claim. (*Magner vs St. Louis*, 179 Mo. 495, 501.)

Salary attaches to the legal title and an officer who is de facto such, but not de jure, cannot recover the salary attached to the office. (*Sheridan vs St. Louis*, 183 Mo. 25.)

Nor can an officer de jure recover from the city for salary paid in good faith to the officer de facto while in office. (*State ex rel. vs Babcock*, 106 Mo. App. 72.)

He who holds the commission is entitled to the salary until his authority is properly cancelled. (*State ex rel. vs Clark*, 52 Mo. 508.)

Where a statute changing the compensation of an officer from fees to a salary is unconstitutional he is entitled to fees collected by the office but he must pay assistants who render services in performing duties of his office with his consent, though employed by city and not by him. (*Henderson vs Koenig*, 192 Mo. 690.)

An officer who accepts a salary under an unconstitutional statute without protest, waives right to fees to which he was entitled instead of such salary. (*State ex rel. vs Messerly*, 198 Mo. 351.)

An officer who is lawfully suspended cannot recover salary for period covered by suspension whether he is finally removed from office or not. (*Blackwell vs City of Thayer*, 101 Mo. App. 661, 1. c. 663, and cases there cited; *Westberg vs Kansas City*, 64 Mo. 493.)

Where an attempted removal of an

officer is unlawful, he is still the incumbent, and he may recover his salary and may mandamus the proper officials. (State ex rel. vs Hawes, 177 Mo. 387; State ex rel. vs Johnson, 123 Mo. 43; State ex rel. vs Walbridge, 153 Mo. 194; See also U. S. vs Wickersham, 201 U. S. 390, 399.)

The constitution (Article XIV, Section 8) provides that "the compensation or fees of no state, county or municipal officer shall be increased during his term of office." This does not apply to any official whose term of office is not definitely fixed, and who holds at the pleasure of the appointing power. (State ex rel. vs Johnson, 123 Mo. 43, 48.)

But both constitutional and charter provision are held to apply to that part of an incumbent's term during which he holds over after the regular term, and before his successor is qualified. (State ex rel. vs Smith, 87 Mo. 158.)

When officer cannot hold over until successor is appointed and qualifies. (State ex rel. vs Lund, 167 Mo. 228.)

An ordinance providing that an employe of a city shall pay fees earned by him as a notary public in connection with the city's business into the city treasury and that his salary shall be in

full of such services, is void, and the notary's fees may be recovered by him from the city which had received them. (Wood vs Kansas City, 162 Mo. 303.)

If officer entitled to commissions pays them into treasury without solicitation, misrepresentation, duress, fraud or undue influence he cannot recover them. (Hethcock vs Crawford Co., 200 Mo. 170.)

But where the city has paid a city official his salary as understood to be due by it, and the same has been received by him as such, over a long period of time, he is thereafter estopped from claiming a greater sum. (Galbreath vs Moberly, 80 Mo. 484.)

A contract by a public officer for the assignment or sale and collection of his future salary is void as against public policy. (State vs Williamson, 118 Mo. 146; Cooley Credit Co. vs Townsend, 132 Mo. App. 390.)

An ordinance is valid, providing against assignability of salary or wages of city employes. (State ex rel. vs Kent, 98 Mo. App. 281.)

Under general principles of law a partial assignment of salary not yet due is void. (Beal vs McVicker, 8 Mo. App. 202.)

Sec. 26. Boards Composed of Three Members—Appointed by Mayor—Qualifications.—All Boards, except as herein otherwise provided, shall be composed of three members appointed by the Mayor for the terms in this Charter provided, and the appointees shall, in all cases, serve until their successors are appointed and qualified. Not more than two voting members of any Board shall be adherents of the same political party. All members of Boards shall be resident tax payers and qualified voters of the city, and shall have resided within the territory embraced within the city five years next before their appointment. No member of any Board shall hold any other office or employment under the United States, the State of Missouri, or any municipal corporation or political division thereof. If any member of any Board shall remove from the city, or shall accept any appointment to or nomination for or become a candidate, for any political office, he shall be deemed to have resigned as a member of said Board.

Shall Take Oath.—Every member of a Board, before entering upon the duties of his office, shall take and subscribe before the City Clerk the oath that he will support the Constitution of the United States and of the State of Missouri, and the provisions of this Charter, and faithfully discharge the duties of his office, which oath shall be indorsed upon or attached to his certificate of appointment and filed with the City Clerk.

Fact that member of board before meeting of board had expressed opinion upon matter to come before board of which he was member did not disqualify him from sitting as member of board. (State ex rel. vs St. Louis, 207 Mo. 354.)

An appellate court cannot review the discretion of the board of public improvements, unless it is so exercised as to be clearly subversive to public rights. (Gay vs Tel. Co., 12 M. A. 485;

Forsyth vs Tel. Co., 12 M. A. 494.)

If the Charter does not in express terms direct the Board of Public Improvements to keep a record of its proceedings, such a duty is by necessary implication, imposed. Its record is admissible in evidence to show a departure from jurisdictional forms prescribed by the Charter, but finding of fact by the board is not conclusive. (Fruin Bambrick Co. vs Geist, 37 M. A. 509, 515.)

Sec. 27. Boards—Money Required to Discharge Duties of, How Apportioned—Schedule of Number, Grade and Compensation of Employes, Etc.—It shall be the duty of each Board at the beginning of the fiscal year to estimate what sums of money may be necessary for the current fiscal year to enable such Board to discharge the duties imposed upon it. The Board shall certify the same to the City Comptroller, and the Common Council is hereby required, in the first apportionment ordinance of the fiscal year, to set apart and apportion for each of such departments the amount the Common Council may deem necessary, payable out of the annual revenue of the city, and each Board shall have power, subject to the provisions of this Article, by requisition upon the Auditor for warrants, signed by the President, countersigned by its Secretary, to expend money after the same has been duly appropriated to the expense and the use of the department.

Each Board shall, with the concurrence of the Common Council, fix a general schedule of the number, grade and compensation of all agents and employes in the department under its supervision and control; *Provided*, That this section shall not limit the power of the Boards and heads of departments, as given elsewhere in this Charter, to employ day laborers or temporary employes in emergencies without previous authority by ordinance.

Sec. 28. Boards—President, His Duties—Board Shall Make By-Laws and Contracts.—The President of each Board, and in his absence or disability, any other member of the Board appointed President *pro tempore* by resolution of the Board, is authorized to sign, execute and acknowledge in the name of the Board all contracts and documents of any character, required or authorized by this Article and by resolution of the Board and to sign requisitions upon the City Auditor for funds under control of, and to be expended by the Board. All requisitions shall be countersigned by the Secretary, and in his absence or disability by some member of the Board other than President or President *pro tempore*. Each Board shall have power and it shall be its duty to make by-laws, rules and regulations for the orderly transaction and conduct of its business, and to make and enforce contracts in the name of the city to carry out the purposes expressed in this Article.

See Art. I, Sec. 1, Art. III, Sec. 1, and Notes.

Sec. 29. Officers—Oath and Bond of—Bonds, How Approved—Suit on Bond—Failing to Furnish Bond, Office Becomes Vacant.—Every officer of the city, before entering upon the duties of his office, shall take the same oath provided for members of the Common Council by Section four of Article II of this Charter, which said oath shall be indorsed upon or attached to his certificate of election or appointment, and he shall deliver the same to the City Clerk. The City Comptroller, before entering upon the duties of his office, shall give bond to the city, conditioned upon the faithful performance of his duties, and the faithful handling of all money and property of the city that may come into his hands, in the sum of One Hundred and Fifty Thousand Dollars, which sum may be increased by ordinance, with good and sufficient sureties to be approved by the Mayor and Upper House of the Common Council. The City Treasurer, before entering upon the duties of his office, shall give bond to the city, conditioned upon the faithful discharge of his duties, and the safe-keeping and faithful accounting for all moneys and property of the city that may come into his hands, in the sum of not less than One Hundred and Fifty Thousand Dollars, with good and sufficient sureties, to be approved by the Mayor, City Counselor, and City Comptroller. The City Purchasing Agent, and all other officers, employes and agents of the city receiving, collecting or handling money of the city, shall similarly give bond

in such sums and upon such conditions as may be required by ordinance. And the Common Council may, by ordinance, prescribe and fix bonds for any officers, employes or agents of the city. All bonds required by this Charter or provided for by ordinance shall be approved as to form by the City Counselor, and as to sureties by the City Comptroller, except the bond of the City Comptroller, which shall be approved as in this Charter provided.

Breach of Bond—Officer Failing to Deliver to Clerk His Certificate—Custody of Bonds—What Corporations Accepted as Sureties.—For any breach of the condition of any bond herein provided for, suit may be instituted thereon by the city or by any person or persons claiming to have been injured by reason of any such breach, in the name of the city and to the use of such person or persons. If any officer fails to deliver to the City Clerk his certificate and oath of affirmation, as herein required, within twenty days after his election or appointment, the office to which he may have been elected or appointed shall be deemed vacated. The City Clerk shall make out and certify copies of all certificates of election and appointment and deliver the same to the Comptroller. The Comptroller shall have the custody of all bonds given for the faithful discharge of duties, except that the City Clerk shall keep and hold the bond of the Comptroller. Corporations duly authorized and empowered by the laws of the State of Missouri to sign as sureties or give bonds for the faithful discharge of duty by public officers and others, and regularly engaged in such business, may be accepted in whole or in part as sureties upon bonds required by this Charter of any officer, agent or employe or depository of the city funds, at the discretion of the authority required to pass on the sufficiency of such bonds.

City Shall Pay Premium for Bonds Given by Members of Boards.—The city shall pay any premium necessary to be paid for bonds required by ordinance to be given by any member of any Board.

Certificates of Election Recorded by City Clerk, Signed by Mayor.—It shall be the duty of the City Clerk to record certificates of election or appointment with the oath thereto attached or

thereon indorsed, within five days after the same is delivered to him. It shall be the duty of the Mayor to sign and deliver such certificate at the time of appointing any officer.

Financial Officer Not to Deal in Any Indebtedness of City—Misdemeanor—Penalty.—If any financial officer of the city shall buy or sell, for the purpose of speculation, any indebtedness of the city, or deal therein during his term of office, he shall be guilty of a misdemeanor, and be punished upon conviction by a fine of not less than One Hundred Dollars nor more than One Thousand Dollars, or imprisonment in the county jail for not less than one month nor more than one year, or by both such fine and imprisonment.

Assignment of Salaries Prohibited.—The sale, encumbrance, or assignment by officers and employes of the city of the salary, wages or compensation paid or to be paid them by the city is prohibited, and shall convey no right to the vendee, assignee, or mortgagee thereof, whether said salary, wages, or compensation be earned or unearned.

Salaries of Officers—When Fixed—Not Decreased or Diminished, When.—The Common Council shall, at least thirty days before each city election, by ordinance, subject to the limitations of this Charter, fix the salaries of all officers for the ensuing official term, and shall not increase or diminish the salary of any officer during his term of office, except that the salary of the Purchasing Agent may be increased during his continuance in office, as he serves without term.

Comptroller in approving bonds, acts ministerially, and mandamus will lie to compel him to act. (State ex rel. vs Shannon, 133 Mo. 139.)

Where public impounder under color of his office improperly impounds cattle, he and sureties are liable on his bond for the trespass. (Kansas City ex rel. vs Minor, 89 Mo. App. 617.)

Liability on official bond of officer holding over. (State ex rel. vs Smith, 87 Mo. 158; Long vs Seay, 72 Mo. 648; State ex rel. vs Kurtzeborn, 78 Mo. 98.)

Suit on bond, admissions of princ-

pal evidence against surety, when. (St. Louis vs Foster, 24 Mo. 141.)

Person commissioned captain of harbor boat, held not to be a city officer. (McCloy vs St. Louis, 6 Mo. App. 603.)

Liability of County Clerk's bondsman for fees unlawfully retained by him as secretary of Board of Equalization is not affected by fact that his account against county was signed as secretary of Board of Equalization and allowed to him by court as such secretary. (State ex rel. vs Adams, 172 Mo. 1.)

ALTERNATIVE SECTION THIRTY, ARTICLE IV.

ALTERNATIVE NUMBER ONE.

Sec. 30. In addition to the method otherwise provided in this Charter for the removal of elective officers, the holder of any elective office may be removed at any time by the electors entitled to vote for a successor of such incumbent. The procedure to affect the removal of an incumbent of an elective office shall be as follows:

A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least thirty per cent of the entire vote for all candidates for the office, the incumbent of which is sought to be removed, cast at the last preceding general municipal election, demanding an election of a successor to the person sought to be removed, shall be addressed to the Common Council and filed with the City Clerk and said petition shall contain a general statement of the grounds for the removal as sought. The signatures to the petition need not be appended to one petition, but each signer shall add to his signature, his place of residence, giving the street and number. Each such paper shall have added thereto the affidavit of a registered voter of the city, stating that all the signatures to the paper were made in his presence, and that to the best of his knowledge and belief, each signature to the paper appended is the genuine signature of the person whose name purports to be thereto subscribed. Within ten days from the date of filing such petition, the said Clerk shall examine and ascertain whether or not said petition has a requisite number of signatures, and if necessary, the Council shall allow him extra help for that purpose, and he shall attach to the petition his certificate of the result of such examination, and deliver the same to the Council. If by the Clerk's certificate the petition is shown to be insufficient it may be amended within ten days from the delivery of such petition and certificate to the Council. The Clerk shall, within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be found to be sufficient the Clerk shall submit the same to the Council without delay, and the Council shall thereupon order a day for holding the said election, not less than thirty days nor more than forty days from the date of the Clerk's certificate to the Council that a sufficient petition is filed.

The City Council shall make, or cause to be made, publication of notice, and all arrangements for the holding of such election, and the same shall be conducted, returned, and results thereof declared in all respects as for other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes the incumbent shall thereupon be deemed removed from his office upon the qualification of his successor. In case the party who receives the highest number of votes shall fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes he shall continue in office.

ALTERNATIVE SECTION THIRTY, ARTICLE IV.

ALTERNATIVE NUMBER TWO.

Sec. 30. City officers elected by the people shall retain their official positions to the end of their respective terms of office, and until their successors are elected and qualified, unless sooner removed for cause, and shall not be subject to removal on petition of electors.

At the election held August 4, 1908, the total vote for the Charter was 14,069; the total vote against it was 5,219; the vote for the first alternative of Article IV, Section 30, was 4,099; the vote for the second alternative of said section was 2,724. (See Constitu-

tion Art. IX, Secs. 16, 17, R. S., Mo. 1899, Sec. 6359; R. S. 1909, Sec. 9703.)

This section does not appear in the recorded copy. (Records Jackson County, Mo., at Kansas City, Book B 1172, pp. 20 to 305.)

ARTICLE V.

REVENUE—TAXATION.

Section.

1. Taxation—Levy—Amount of—Exemption—Uniform.
2. Increase of Levy.
3. Property to be Taxed—Time When Owned.
4. Assessor—May Appoint Deputies.
5. List of Property to Be Returned to Assessor—Notice—Merchant's Return.
6. City Assessor to Make Assessments—Return to City Clerk—Property, Real and Personal—List of Merchants—List of Corporations.
7. Assessments to Include Property Owned by Corporations Not Assessable by the State Board of Equalization—City Assessor to Examine Findings of State Board of Equalization.
8. Every Property Owner to Deliver to Assessor Complete List of Property, Etc.—Assessor to Receive List, When—To Furnish Blanks.
9. Verification of Lists—Failing to Furnish List—Penalty.
10. Corporations and Companies—Assessment of Property of—Bank Stock—Lists and Assessment of—Lien—Failure to Furnish List—Penalty.
11. Assessments of Realty—Tabulated Form—Description—Survey—City Engineer—Separate Assessment—Assessment for Years Omitted.
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Section 1. Taxation—Levy—Amount Of—Exemption—Uniform.—The city shall have power, by ordinance, to levy and collect a general tax of not exceeding one per centum for each fiscal year upon all property in the city not by general law exempt from municipal taxation. And the city may, under the authority of any provision of the Constitution or general laws of this State, now and

hereafter existing, exempt any class of property within its jurisdiction from taxation, either wholly or by reduction of the rate thereon; *Provided*, That any taxation or exemption from taxation shall be uniform upon the same class of subjects within the city.

Authority to Tax.—Taxing power may be exercised by municipal corporations under authority granted them by General Assembly. (Constitution Mo., Art. X, Sec. 1.)

If the state can tax for state purposes it can confer upon its municipalities power to tax for local purposes. (Henderson Co. vs Henderson City, 173 U. S. 592, 1. c. 614.)

"A municipality without power of taxation would be a body without life, incapable of acting and serving no useful purpose." (U. S. vs New Orleans, 98 U. S. 381, 393.)

Without the exercise of taxing power municipal government would cease to exist. (State vs Railroad, 75 Mo. 208.)

General Assembly cannot impose taxes upon city, inhabitants or property for municipal purposes but may by general laws vest in corporate authorities power to assess and collect tax for such purposes. (Constitution, Art. X, Sec. 10; State ex rel. vs Ashbrook, 154 Mo. 375.)

State may provide for a police system for city and compel its support of municipalities funds. This is not tax levied for municipal purposes. (State ex rel. vs Mason, 153 Mo. 23.)

Legislature cannot empower city to tax for municipal purposes land beyond city limits. (Wells vs Weston, 22 Mo. 384; Cameron vs Stephenson, 69 Mo. 372.)

Authority to tax personal property within city where owner resides outside of city and to tax owner who resides in city for personal property outside of city. (St. Charles vs Nolle, 51 Mo. 122; Corn vs City of Cameron, 19 Mo. App. 573; City of Plattsburg vs Clay, 67 Mo. App. 497.)

Right of city to tax for construction of improvements beyond city limits or in another state see Haeussler vs St. Louis, 205 Mo. 656.

As to what is within the limits where the boundary is a river, see extended discussion in Henderson Bridge Co. vs Henderson City, 173 U. S. 592, to be

interpreted in connection with our laws as to the boundary. (Swearingen vs Steamboat Lynx, 13 Mo. 519; Sanders vs Anchor Line, 97 Mo. 27; Cooley vs Golden, 52 Mo. App. 229; State ex rel. vs Longfellow, 169 Mo. 109; State vs Metcalf, 65 Mo. App. 681.)

Extension of limits that exempts property from taxation or provides for unequal taxation is invalid. (State ex rel. vs Wardell, 153 Mo. 319; Copeland vs St. Joseph, 126 Mo. 417.)

Lands brought into city by extension of its boundaries are not subject to a tax levy already made. (Westport ex rel. vs McGee, 128 Mo. 152; See Art. I, Sec. 4 and note.)

A contract by a city not to exercise taxing power or attempting to limit the exercise thereof by exemption or commutation of taxes, is void, and of no effect. (State vs Railroad, 75 Mo. 208, 1. c. 210; Springfield vs Smith, 138 Mo. 645, 1. c. 655; Vrana vs St. Louis, 164 Mo. 146 1. c. 152.)

There are three general classes of direct taxes, capitation having effect solely upon persons; ad valorem, having effect solely upon property; and income, having a mixed effect upon persons and property. (Glasgow vs Rowse, 43 Mo. 479, 1. c. 490.)

Difference between assessment for taxation and levying the tax. (Kansas City vs Railroad, 81 Mo. 285.)

The tax must be levied by tribunal to whom the power is delegated. (Kansas City vs Railroad, 81 Mo. 285; Railroad vs Apperson, 97 Mo. 300.)

Distinction between revenue and license tax. (Town of Pacific vs Seifert, 79 Mo. 210.)

A license is issued under police power. Exaction of license fee with a view to revenue would be exercise of power of taxation. Regulation cannot be used as a cloak for taxation. (State vs Bengsch, 170 Mo. 81, 1. c. 109, 110.)

City may collect ad valorem tax on property used in a calling and at same time impose license tax on the pursuit as a condition to right to carry it on. (City of Aurora vs McGannon.

138 Mo. 38; *City of Monett vs Hall*, 128 Mo. App. 91.)

See Art. III, Sec 4, and note.

Taxes Must Be Uniform upon same class of subjects within territorial limits of authority levying tax and all taxes must be levied and collected by general law. (Const. Mo., Art. X, Sec. 3.)

Rate must be uniform upon persons in same class. One merchant cannot be taxed at higher rate than other. (*Kansas City vs Grush*, 151 Mo. 128; *State ex rel. vs Ashbrook*, 154 Mo. 375.)

Classification must rest on some reason other than mere ownership. Property used for same or similar purposes within same class. (*Russell vs Croy*, 164 Mo. 69, 1. c. 107.)

Tax must apply to all property within territorial limits of authority levying tax. (*State ex rel. vs Ry. Co.*, 195 Mo. 228.) This does not apply to special assessments and local improvements. (*Corrigan vs Kansas City*, 211 Mo. 608.)

Double tax of same property is not favored and is never presumed. (*State ex rel. vs Ry. Co.*, 196 Mo. 523.)

All property subject to taxation shall be taxed in proportion to its value. (Const. Mo. Art. X, Sec. 4.)

Railway corporations are subject to taxation on real and personal property owned or used by them, on their gross earnings, their net earnings and franchises and their capital stock. (Const. Mo. Art. X, Sec. 5.) See Secs. 7 and 10, this Article.

Constitutional Limitations Upon Amount of Taxation.—For city and town purposes the annual tax rate in cities having 30,000 inhabitants or more shall not in the aggregate exceed 100 cents on the one hundred dollar valuation. For the purpose of erecting public buildings the rates may be increased when the rate of such increase and purpose for which it is intended shall have been submitted to vote and two-thirds of qualified voters of city or school district voting at such election shall vote therefor. (Constitution Mo., Art. X, Sec. 11.)

For school purposes in districts composed of cities which have 100,000 inhabitants or more the annual rate shall not exceed 60 cents on the one hundred dollar valuation, but it may

be increased in districts formed of cities or towns to an amount not to exceed \$1.00 on the hundred dollar valuation on condition that majority of voters who are tax payers voting at election to decide question vote for said increase. (Const. Mo. Art. X, Sec. 11.)

Rate shall be ascertained by amount of taxable property according to last assessment for state and county purposes. (Const. Mo. Art. X, Sec. 11.)

The assessed valuation cannot exceed the assessed value of the same property for State and County purposes, although building constructed thereon between times of two assessments. (*Center Building Co. vs St. Joseph*, 108 Mo. 304.)

Tax levy in excess of constitutional limitation is invalid. (*State ex rel. vs Railway Co.*, 169 Mo. 563.)

Constitution refers to indebtedness incurred by assent, agreement or contract, not to liability for tort which is to be distinguished from debt. (*Conner vs Nevada*, 188 Mo. 148.)

Assessments for special benefits do not fall within constitutional inhibition. (*Lamar W. & E. L. Co. vs City of Lamar*, 128 Mo. 188, 1. c. 219; *Barber Asphalt Paving Co. vs St. Joseph*, 183 Mo. 451, 1. c. 458 and numerous cases there cited; *Heman Construction Co. vs Railroad*, 206 Mo. 172; *Fruin Bambrick Construction Co. vs St. Louis Shovel Co.*, 211 Mo., 524 1. c. 532.)

Nor do assessment for levies. (*Morrison vs Morey*, 146 Mo. 543.)

Kansas City is authorized to issue bonds with the assent of two-thirds of voters voting at election held for that purpose to an amount including outstanding indebtedness other than water works bonds to amount of 5 per cent of value of taxable property in city. (Const. Art. X, Sec. 12; *State ex rel. vs Wilder*, 197 Mo. 1.)

Power to contract debt by bond carries with it power to levy taxes to pay same unless such power is expressly denied. Levy may be compelled by mandamus. (*U. S. vs New Orleans*, 98 U. S. 381, 1. c. 393, 394.)

Neither state nor city can impair obligation of bonds by dissolution of corporations or change of boundaries and officers of old municipality may be compelled by mandamus to levy taxes

for their payment. (*Graham vs Falsum*, 200 U. S. 248.)

Levy of taxes to pay indebtedness incurred under provisions of Constitution, Art. X, Sec. 12, may be made in addition to amount limited in section 11 of same article. (*Lamar W. & E. L. Co. vs City of Lamar*, 128 Mo. 188, s. c. 140 Mo. 145; *Aurora Water Co. vs City of Aurora*, 129 Mo. 540; *State ex rel. vs Ry. Co.*, 169 Mo. 563; *Evans vs McFarland*, 186 Mo. 703; *State ex rel. vs Payne*, 211 Mo. 64.)

Injunction will lie to prevent the collection of taxes levied in excess of the legal limit, but amount legally due must be first paid or tendered. (*Arnold vs Hawkins*, 95 Mo. 569; *Overall vs Rienzi*, 67 Mo. 203; *Valle vs Ziegler*, 84 Mo. 214; *Porter vs Paving Co.*, 214 Mo. 1, l. c. 22.)

When part of tax is illegal and part valid court will not enjoin collection of all taxes for year when. (*Black vs Early* 208 Mo. 281.)

Property Exempt From Taxation Prior to Present Constitution.—In absence of constitutional restriction the Legislature could exempt any subject from taxation. (*Scotland County vs Railway*, 65 Mo. 123.)

But the intention to abandon right of taxation must have been clearly and unequivocally expressed. (*Railroad vs Cass County*, 53 Mo. 17; *State ex rel. vs Railway*, 89 Mo. 523; *St. Louis vs Insurance Company*, 47 Mo. 150; *State ex rel. vs Dulle*, 48 Mo. 282; *University vs Rowse*, 42 Mo. 308; *Railroad vs Shacklett*, 30 Mo. 550; *State ex rel. vs Railway*, 99 Mo. 30; *Scotland County vs Railway*, 65 Mo. 123; *State ex rel. vs Lange*, 16 Mo. App. 468; *State ex rel. vs Johnston*, 214 Mo. 656, l. c. 662.)

When such exemptions constitute a contract, they cannot be abrogated in absence of reserved rights. (*St. Vincent's College vs Schaefer*, 104 Mo. 261; *Mechanic's Bank vs Kansas City*, 73 Mo. 555; *Scotland County vs Ry.*, 65 Mo. 123; *State ex rel. vs Board of Trustees*, 175 Mo. 52, l. c. 60.)

Where exemption is limited in amount not entitled to exemption beyond that amount. Exemptions created by constitution of 1875 cannot be added to those granted by Charter. (*State ex rel. vs Mission Free School*, 162 Mo. 332.)

But if such statutes do not amount to a contract they may be repealed at will of Legislature. (*University vs Rowse*, 42 Mo. 308; *St. Joseph vs Railroad*, 39 Mo. 477.)

If corporation holds property for any purposes except those mentioned in its charter that property is subject to taxation. (*State ex rel. vs Board of Trustees*, 175 Mo. 52.)

Such exemption constitutes personal privilege, and cannot be transferred without statutory authority. (*State ex rel. vs Railway*, 89 Mo. 523; *State ex rel. vs Railway*, 99 Mo. 30; *Dean vs Railway*, 199 Mo. 386, l. c. 390.)

Constitutional provision is prospective in its operation and does not repeal prior special laws exempting property from taxation. (*State ex rel. vs St. Joseph's Convent*, 116 Mo. 575; *Scotland County vs Railway*, 65 Mo. 123; *State ex rel. vs Board of Trustees*, 175 Mo. 52, l. c. 60.)

Property Exempt From Taxation Under Present Constitution.—Under the constitution of Missouri, property of the state, counties, municipal corporations and cemeteries, one acre of ground and buildings thereon used exclusively for religious worship, for school or for purposes purely charitable and property used exclusively for agricultural or horticultural societies shall be exempt from taxation, provided that such exemption shall be only by general law. (Const. Mo. Art. X, Sec. 6.)

For statute declaring exemption see R. S., 1899, Sec. 9119; R. S. 1909, Sec. 11335.

All laws exempting property from taxation other than the property above enumerated, shall be void. (Const. Mo. Art. X, Sec. 7.)

"In every locality the rate may vary, but for public local purposes all property not exempt under the constitution must be taxed." (*State ex rel. vs Ry. Co.*, 195 Mo. 228, l. c. 238.) This does not apply to special assessments and local improvements. (*Corrigan vs K. C.*, 211 Mo. 608.)

Attempted exemption of any character of property that does not fall within the exceptions enumerated in Section 6 of Article X of the constitution is void. (*State ex rel. vs Wardell*, 153 Mo. 319, l. c. 323.)

Statutes and constitutional provis-

ions are construed with strictness and most strongly against those claiming the exemption. Burden of establishing exemption is upon person claiming it. (Exposition Driving Park vs Kansas City, 174 Mo. 425, l. c. 433; State ex rel. vs Johnston, 214 Mo. 656, l. c. 662.)

When exemption becomes *res adjudicata*. (Exposition Driving Park vs Kansas City, 174 Mo. 425, l. c. 433.)

Public property of the city is exempt from taxation (Art. X, Sec. 6) but this does not apply to property held by city as trustee of a charitable bequest for benefit of a particular class; in such case the tax should be assessed against city as trustee. (St. Louis vs Wenneker, 145 Mo. 230, 239.)

Hospital building not excluded from exemption because certain patients therein pay, when such profit is applied to charitable purposes of the institution. (State ex rel. vs Powers, 74 Mo. 476; s. c. 10 Mo. App. 263.)

Real estate used for cemetery or crematory, exempt from taxation. (State ex rel. vs Wesleyan Cemetery, 11 Mo. App. 570.) A grave yard is none the less such because for a quarter of a century no one has been buried there. (Tracy vs Bittle, 213 Mo. 302.)

Personal property of cemetery company such as money derived from sale of lots, horses, hearses, etc., not exempt from taxation. (State ex rel. vs Casey, 210 Mo. 235.)

Exemption of property so long as same remains dedicated to purposes of cemetery, will not include ground rented to third person as residence and for purposes of husbandry. (Gymnastic Society vs Hudson, 12 Mo. App. 342, s. c. 85 Mo. 32.)

Exemption of five acre tracts within corporate limits unconstitutional. (City of Westport vs McGee, 128 Mo. 152; Copeland vs St. Joseph, 126 Mo. 417; State ex rel. vs Wardell, 153 Mo. 319; Birch City vs Plattsburg, 180 Mo. 413; State ex rel. vs Birch, 186 Mo. 205.)

To exempt United States property, title must be in the government. (Speed vs St. Louis County Court, 42 Mo. 382.)

What is horticultural society. (Ex-

position Driving Park vs Kansas City, 174 Mo. 425.)

Property of lodges. (Adelphia vs Crawford, 157 Mo. 356; Fitterer vs Crawford, 157 Mo. 51.)

Gift designed to promote public good by encouragement of learning, science and arts is a charity, and exempt from taxation. (State ex rel. vs Academy, 13 Mo. App. 213.)

Residence of Bishop used for purposes purely charitable is exempt. (Bishop's Residence Co. vs Hudson, 91 Mo. 671.)

If building is used in part for school purposes and part for other purposes, it is not exempt from taxation. (Wyman vs St. Louis, 17 Mo. 335.)

Military pay school where cadets are received and boarded as are officers and teachers under family arrangement is exempt from taxation although proprietor and his family reside in school building. (State ex rel. vs Johnston, 214 Mo. 656.)

Exemption of lot and buildings when used for schools, does not include office furniture nor furniture of chemical laboratory. (Kansas City vs Medical College, 111 Mo. 141.)

Ownership of property upon which is a school is a controlling factor in determining whether or not property is subject to taxation. Where property is leased for school purposes, lessors interest subject to taxation. (State ex rel. vs Macgurn, 187 Mo. 238.)

Public library is not public school within meaning of constitution. City which has levied maximum tax permitted for general revenue purposes cannot levy additional tax for library purposes. (Brooks vs Schultz, 178 Mo. 222.)

Law regulating insurance companies, specifying certain fees shall be in lieu of taxes, cannot operate as exemption from taxation or even to commute the payment of taxes. (Life Association vs St. Louis County, 49 Mo. 512; State vs Railroad 75 Mo. 208.)

Provision exempting from taxation does not extend to special assessments for public improvements. (State ex rel. vs Linn County Court, 44 Mo. 504; Sheehan vs The Good Samaritan Hospital, 50 Mo. 155; City of Clinton vs Henry County, 115 Mo. 557; Southern Hotel Co. vs County Court, 62 Mo. 134; Farrar vs St. Louis, 80 Mo. 379, State

ex rel vs Kansas City, 89 Mo. 34; Heman Construction Co. vs Railway, 206 Mo. 172; Fruin-Bambrick Construction Co. vs St. Louis Shovel Co., 211

Mo. 524, l. c. 532.) Nor assessment for levees. (Morrison vs Morey, 146 Mo. 543.)

Sec. 2. Increase of Levy.—For the purpose of erecting public buildings the Common Council may in any fiscal year increase the one per cent heretofore authorized in section one of this article, not to exceed two and one-half mills on the dollar. But such increase shall not be made unless an ordinance authorizing such increase and defining the purpose thereof shall have first been submitted to a vote of the people by a proclamation of the Mayor at a general or special election, and two-thirds of the qualified voters of the city voting at such election shall vote therefor. No such submission shall be deemed legal and effective unless there shall have been published for fifteen successive days immediately preceding such election, in at least two daily newspapers published in Kansas City, a full verbatim copy of such ordinance and such proclamation of the Mayor.

Publication, see Art. XVIII, Sec. 13, and note.

Sec. 3. Property to Be Taxed—Time When Owned.—Every person owning or holding property subject to taxation for municipal purposes on the first day of January of any calendar year, including all property purchased on that day, shall be liable for taxes thereon for the fiscal year beginning on the third Monday in April next thereafter.

See Section 5, this article.

Assessment lists, Section 8.

Property in stocks of corporations, Section 10.

Real estate, Section 11.

Merchants' tax, Sections 6 and 18.

Railroads, Section 7.

Incorporated banks, Section 10.

Domicile at time of making assessment determines place of taxation of all property taxable at place of residence of its owner. (State ex rel. vs McCausland, 154 Mo. 185; Corn vs City of Cameron, 19 Mo. App. 573.)

Legislature has authorized cities of the first, (R. S. 1899, Sec. 5341; R. S. 1909, Sec. 8588), second (R. S. 1899, Sec. 5508, R. S. 1909, Sec. 8890), third (R. S. 1899, Sec. 5811, R. S. 1909, Sec. 9203), and fourth (R. S. 1899, Sec. 5979, R. S. 1909, Sec. 9400), classes to tax all property in city liable to taxation for state purposes.

R. S. 1899, Sec. 6370, R. S. 1909, Sec. 9714, authorizes special charter cities to levy and collect taxes through its own officers. We find no statutory limitations upon this power except exemptions of certain classes of property from taxation.

Where property actually is located is place where assessment is made and tax collected. Regulation prescribed by Legislature must be followed. (School District vs Bowman, 178 Mo. 654, l. c. 658.)

R. S., 1899, Sec. 9121, R. S., 1909, Sec. 11337, provides that personal property situate in county other than one in which owner resides shall be assessed in county where owner resides and all notes, bonds or other evidences of debt made taxable by laws of this state held in any state or territory, other than that in which owner resides, shall be assessed in

county where owner resides.

Does not apply to property here casually or temporarily, but to such property as is capable of having actual situs separate from person or domicile of owner and to some extent kept, used, or maintained here. (*Pacific Ry. Co. vs Cass County*, 53 Mo. 17, l. c. 31.)

Curator, discharged in February, should have given in property for assessment in January previous, and on settlement retained sufficient to pay taxes. Failing in this, he is personally liable for taxes. (*Kansas City vs Simpson*, 90 Mo. App. 50.)

If minors and their curator move from county where curator is appointed, their property is not thereafter taxable in such county, although Probate Court of county may continue to exercise jurisdiction over it until final settlement. (*State ex rel. vs McCausland*, 154 Mo. 185; *State ex rel. vs Brown*, 172 Mo. 374; *State ex rel. vs Hamilton*, 202 Mo. 377.)

Personal property of decedent taxable in domicile in which he resided at time of his death, and not in domicile of executor or administrator. (*Stephens vs Boonville*, 34 Mo. 323.)

But if decedent was non-resident, and property transferred to this state to be administered, its situs is here and is subject to local taxation. (*State ex rel. vs St. Louis County Court*, 47 Mo. 594; *Corn vs Cameron*, 13 Mo. App. 573.)

Taxes on personal estate of decedent, whether accruing before or after death, are demands which administrator should pay. (*State ex rel. vs Tittmann*, 103 Mo. 553; *State ex rel. vs Trust Co.*, 209 Mo. 472.)

In order that property may be taxed, it must be by law subject to taxation. (*Valle vs Ziegler*, 84 Mo. 214; *Kansas City vs B. L. Assn.*, 145 Mo. 50 l. c. 53.)

Held under this section that all personal property is assessable and taxable where owner resides. (*State ex rel. vs McCausland*, 154 Mo. 185; see also *School District vs Wickersham*, 34 Mo. App. 337, l. c. 310, 341, and cases there cited.)

Situs of intangible property as stocks is residence of owner when contrary is not declared by statute. (*Ogden vs*

City of St. Joseph, 90 Mo. 522, l. c. 529.)

General rule that situs of personal property is the domicile of owner, is subject to legislative repeal, modification or limitation; (*Railroad vs Board of Equalization*, 64 Mo. 294; *State ex rel. vs McCausland*, 154 Mo. 185, l. c. 190.)

In reference to taxation personal property does not always follow domicile of owner. Property of non-resident, if situs here, is subject to local taxation. (*St. Louis vs Wiggins Ferry Co.*, 40 Mo. 581; *State ex rel. vs St. Louis County Court*, 47 Mo. 594; *Corn vs City of Cameron*, 19 Mo. App. 573.)

Property of resident of city may have situs outside of city. (*City of Plattsburg vs Clay*, 67 Mo. App. 497. Relating to city of fourth class.)

Personal property of a non-resident is taxable here if it be found within the local jurisdiction regardless of whose hands it may happen to be in. (*Curtis vs Ward*, 58 Mo. 295; *St. Joseph ex rel. vs Saville*, 39 Mo. 461.)

Fact that property is held in trust creates no exemption nor does it change its situs. (*State ex rel. vs St. Louis County Court*, 47 Mo. 594, l. c. 603; *St. Louis vs Wenneker*, 145 Mo. 230.)

For purposes of taxation possession is prima facie evidence of ownership. (*City of St. Joseph ex rel. vs Railroad Co.*, 39 Mo. 476.)

Bonds owned by resident, but kept in another state in good faith because interest payable there or for safe keeping, and not to avoid taxation, are not taxable here. (*Valle vs Ziegler*, 84 Mo. 214; *State ex rel. vs County Court*, 69 Mo. 454; *St. Louis vs Wiggins Ferry Co.*, 40 Mo. 581.)

Taxation of cattle kept outside of city and not used in connection with owner's business in city. (*City of Plattsburg vs Clay*, 67 Mo. App. 497. City of fourth class.)

Steamboats having home port in city, are subject to city taxation. (*St. Joseph vs Saville*, 39 Mo. 460; *St. Louis vs Wiggins Ferry Co.*, 40 Mo. 581.)

Erroneous taxation of personal property in state not its situs, will not prevent assessment in this state. (*State ex rel. vs St. Louis County Court*, 47

Mo. 594; *State ex rel. vs County Court*, 69 Mo. 451.)

Word "year," when applied to matters of revenue, presumed to refer to fiscal year. (*Glasgow vs Rowse*, 43 Mo. 479.)

The revenues for any one year must be applied to current expenses for that year and only surplus after these have

been paid can be used to pay county warrants issued in some other year. (*Ry. Co. vs Thornton*, 152 Mo. 570; *State ex rel. vs Payne*, 151 Mo. 663; *State ex rel. vs Allison*, 155 Mo. 325; *State ex rel. vs Johnson*, 162 Mo. 621.)

Each year's taxes are a separate and distinct transaction. (*Bland vs Windsor*, 187 Mo. 103.)

Sec. 4. Assessor—May Appoint Deputies.—The Assessor may, subject to the Civil Service laws, rules and regulations contained in or provided for by this Charter, appoint one or more competent deputies, not exceeding the number that may be limited by ordinance, who shall have and exercise, under the supervision of the Assessor, any and all of the powers and duties of the Assessor, and he may remove such deputies at his pleasure.

Sec. 5. List of Property to Be Returned to Assessor—Notice—Merchant's Return.—The Assessor shall, at least ten days before the first day of January in each year, give public notice by advertisement in some daily newspaper published in the city, that all persons owning or having in their possession, or under their control, whether as owner or agent of another, on the first day of January next ensuing, personal property subject to municipal taxation, are required to deliver to him, at his office, on or before the fifteenth day of February next, lists of all such property, classified as required by law, with the true value thereof; and that every merchant doing business in the city is required within the same time to furnish to him, at his office, a true statement, verified by oath or affidavit of such merchant or his agent, of the highest amount in value of all goods, wares and merchandise owned or kept on hand for sale by such merchant during the three months next preceding such first day of January.

Publication, see Art. XVIII, Sec. 13, and note.

Presumption as to giving notice. (*State ex rel. vs Vogelsang*, 183 Mo. 17.)

Necessity of notice. (*State ex rel. vs Cummings*, 151 Mo. 49.)

Sec. 6. City Assessor to Make Assessments—Return to City Clerk—Property, Real and Personal—List of Merchants—List of Corporations.—It shall be the duty of the City Assessor on or before the fifteenth day of March of each year to make and return to the City Clerk a full and complete assessment of all prop-

erty, real and personal, in the said city on the first day of January next preceding, and not exempt from municipal taxation, excepting the goods, wares and merchandise kept on hand for sale by merchants, and excepting the property of corporations whose capital stock is liable to taxation, at the cash value of such property; also a list of all merchants doing business in the city, with the cash value of the highest amount of goods, wares and merchandise so owned or kept on hand for sale by each during the three months next before the first day of January next preceding; also a list of all corporations whose capital stock is liable to taxation, with the cash value of shares of stock of each of said corporations. All real estate assessed shall be returned in one book, and all other lists in one book under separate headings; *Provided*, That the Assessor may make each of said tax books in as many volumes as may be necessary for convenient handling. Such books shall contain appropriate blank columns for the extension of all taxes therein, and shall be certified, verified and returned as hereinafter provided.

A valid assessment has always been held an essential prerequisite to the lawful exercise of the power of taxation. (State ex rel. vs Bank of Carterville, 180 Mo. 717, l. c. 734; City of Hannibal ex rel. vs Bowman, 98 Mo. App. 103, l. c. 109 and cases there cited; State ex rel. vs Burrough, 174 Mo. 700.)

If assessment is void, tax is void. (State ex rel. vs Wabash Railway Co., 114 Mo. 1, l. c. 11; Heman vs Farish, 97 Mo. App. 393, l. c. 401; City of Hannibal ex rel. vs Bowman, 98 Mo. App. 103 l. c. 109.)

Law respecting assessments is in large sense, directory. Omission, which does not injuriously affect right of taxpayer and not essential to making assessment, will not vitiate tax. (State ex rel. vs Carr, 178 Mo. 229, l. c. 234.)

Mere informalities in making assessment, or in tax list or in assessment not being made or completed in the time required by law do not affect validity of tax. (State ex rel. vs Stamm, 165 Mo. 73, l. c. 83; R. S. Mo. 1899, Sec. 9179, R. S. 1909, Sec. 11383.)

But see cases holding that erroneous assessment is at most an irregu-

larly and is not subject to attack in collateral proceeding. (Warren vs Manwarring, 173 Mo. 21, l. c. 34; Morrison vs Turnbaugh, 192 Mo. 427, l. c. 445. See to the contrary, Phelps vs Brumback, 107 Mo. App. 16, l. c. 23.)

General rule is that partnership property is assessed in name of partnership and not in name of individuals composing partnership in proportion of interest of each. (School District vs Bowman, 178 Mo. 654, l. c. 658; State ex rel. vs Bank of Neosho, 120 Mo. 161.)

As to how property of minors and decedents is assessed, see Kansas City vs Simpson, 90 Mo. App. 50; State ex rel. vs Burr, 143 Mo. 209; State ex rel. vs Trust Co., 209 Mo. 472, l. c. 493, 494.

For who are merchants, assessment of merchants, etc., see Section 18. See also Article III, Section 1, Clause 4.

Assessment and taxation of corporate stock, property owned by corporations, etc., see Sections 7 and 10. Assessment of real property, see Section 11.

Sec. 7. Assessments to Include Property Owned By Corporations Not Assessable By the State Board of Equalization—City Assessor to Examine Findings of State Board of Equalization.—It shall be the duty of the City Assessor, in making and returning assessments provided by Section six of this Article, to include therein all railroad, street railroad, telephone, telegraph and other property owned by corporations within the limits of the city, which is not assessable by the State Board of Equalization. He shall each year procure copies of returns made by such corporations to the Clerk of the County Court of Jackson County, Missouri, in pursuance of Article VIII, Chapter 149, Revised Statutes 1899, and all amendments thereto, and copies of the certificates of the County Court of said County to the State Board of Equalization, showing the valuation and assessment made by said Court upon property to be assessed and equalized by said Board of Equalization. He shall keep said copies in the files of his office, and deliver same to his successor. He shall, each year, at least sixty days prior to the date fixed for the first meeting of the State Board of Equalization, make a careful comparison of said certificate of the County Court, with the property of such corporations assessable by the State Board of Equalization, and make a tabulated, detail report of all errors, omissions or undervaluation thereof to the Mayor; and keep a copy of said report in the files of his office. It shall be the duty of the City Engineer, City Counselor, and all other city officials, when requested by the Assessor to do so, to aid the Assessor in making such comparisons. If it appears by said report that the rights of the city have been substantially affected by any mistakes, omissions or undervaluations, it shall be the duty of the Mayor, City Assessor and City Counselor to appear before the State Board of Equalization and make a showing of such errors. Copies of all plats, papers and arguments filed by said officials with the State Board of Equalization shall be kept on file in the office of the City Assessor, and delivered to his successor. Copies of the annual proceedings of the State Board of Equalization shall also be kept in good order in the files of the City Assessor, and shall be delivered to his successor. It shall be the duty of the City Assessor to examine the findings of the State Board of Equalization, and, if he ascertains that the city has not been allowed its pro rata share of the total valuation, he shall report same to the Mayor, and it shall be the duty of the

Mayor to cause such facts to be presented to the State Board of Equalization for correction.

Property of manufacturing companies and other corporations, taxation of which is not otherwise provided for by law, shall be assessed and taxed in their corporate names. (R. S. Mo. 1899, Sec. 9153, R. S. 1909, Sec. 11357.) See Sec. 10 post.

Railroads and street railroads are assessable by State Board of Equalization in the aggregate value of property as apportioned by board to each county, municipal township, city or incorporated town in which the road is located. (R. S. 1899, Chap. 149, Art. XVIII; R. S. 1909, Chap. 117, Art. 12.)

Railroad franchises are assessable in same manner. (Laws 1901, p. 232, R. S. 1909, Secs. 11551-11552.)

Taxing franchise of railroad engaged in interstate commerce. (State ex rel. vs Wiggins Ferry Co., 208 Mo. 622.)

Nothing in Federal Constitution prevents state from singling out railroad or other corporate property and taxing it for state purposes in manner and at rate different from that applicable to other property. (Michigan Central Ry. Co. vs Powers, 201 U. S. 247.)

Theory of system of taxing railroads is that railroad with all necessary appurtenances to its efficient equipment as means of traffic should be taken as a whole and assessed for taxation by State Board of Equalization. Does not include property used by railroad corporation as collateral facility to business, such as workshops, etc., nor property held for purposes other than those of carrier. All such other purposes being subject to taxation by local authorities. (State ex rel. vs Railroad, 162 Mo. 391, l. c. 394.)

State tax levied upon aggregate assessment and valuation of cars in lieu of all other taxes held unconstitutional. (R. S. Mo. 1899, Sec. 9349; State ex rel. vs Stephens, 146 Mo. 662.)

What is railroad within meaning of statute. (State ex rel. vs Wiggins Ferry Co., 208 Mo. 622.)

Full discussion of what is assessable by State Board and what by local authorities. (State ex rel. vs H. & St. J. Ry. Co., 135 Mo. 618; State ex rel. vs Wiggins, 208 Mo. 622.)

Statute professes to provide method for entire state for extending and collecting taxes on railroad property and applies to charter cities. (State ex rel. vs Railroad, 117 Mo. 1, cited with approval in St. Louis vs Klausmeier, 213 Mo. 119, l. c. 126; St. Louis vs Meyer, 185 Mo. 583, l. c. 598.)

Taxes against railroads are assessed by State Board of Equalization. (R. S. Mo. 1899, Sec. 9344, R. S. 1909, Sec. 11559.)

Street railroads are also assessable by State Board of Equalization. (R. S. Mo. 1899, Sections 9353, 9354, 9355, R. S. 1909, Secs. 11572, 11573, 11574.)

This applies to street railway company whose line or road is partly within city, and partly outside limits of city. (State ex rel. vs Met. Street Ry. Co., 161 Mo. 188.)

What assessment must contain. (State ex rel. vs Ry. Co. 101 Mo. 136, l. c. 144, 145.)

Judgment of State Board of Equalization is final under Missouri constitution and statutes. (State ex rel. vs Dockery et al., 191 U. S. 165, l. c. 170; State ex rel. vs Western Union Telegraph Co., 165 Mo. 502, l. c. 517.)

Taxes against railroads are levied by the County Court. (R. S. Mo. 1899, Sec. 9363, R. S. 1909, Sec. 11582.)

County Court only has power to levy these taxes for city purposes. (City of St. Joseph vs Railroad, 118 Mo. 671, l. c. 685.)

Tax may be levied only by County Court by order spread upon its records, otherwise collection of tax cannot be enforced. (City of Kansas vs Railway Co., 81 Mo. 285; St. Louis & S. F. Ry. Co., vs Apperson, 97 Mo. 300; State ex rel. vs Railroad, 135 Mo. 618.)

Assessment may be made at adjourned session of regular term. (State ex rel. vs Railway, 101 Mo. 136.)

Tax not invalid because levy is made after tax is due. (St. Louis & S. F. Ry. Co. vs Gracy, 126 Mo. 472.)

Ascertainment of rate and amount of levy by County Court is judicial act and rate cannot be changed by Circuit Court nor otherwise reviewed by it. (State ex rel. vs Ry., 149 Mo. 635.) See

State ex rel. vs Western Union Tel. Co., 165 Mo. 502.)

Each City or Town Council, Etc., is required to certify to the County Court a statement of assessments of property held for purposes other than those of carrier and the rate percent levied by the city on all property therein for municipal purposes for that year.

If this certificate is not made within time required, tax upon said property for such city cannot be levied. (State ex rel. vs Railroad, 135 Mo. 77.)

Telegraph Companies.—Franchises and property of telegraph companies are assessed by State Board of Equalization. (R. S. Mo. 1899, Chap. 149, Art. IX; Laws 1901, p. 232; R. S. 1909, Chap. 117, Art. XIII; R. S. 1909, Secs. 11551, 11552.)

Property of telegraph company within state is subject to state taxation like all other property. Fact that company is engaged in interstate commerce or that it is agent of government can afford no immunity from taxation of its property. (State ex rel. vs Western Union Telegraph Co., 165 Mo. 502, l. c. 519.)

What may be taken into consideration in assessing telegraph company. (State ex rel. vs Western Union Tel. Co., 165 Mo. 502, l. c. 511, 512.)

Fact that telegraph company is instrument of interstate commerce does not exempt its property in this state from taxation. (State ex rel. vs Wes-

tern Union Tel. Co., 165 Mo. 502, l. c. 525, s. c. 190 U. S. 412.)

Bridges assessable by State Board of Equalization. (R. S. Mo. 1899, Chap. 149, Art. IX; Laws 1901, p. 232; R. S. 1909, Chap. 117, Art. XIII; R. S. 1909, Secs. 11551, 11552.) See note to telegraph companies.

How assessed. (State ex rel. vs Railroads, 196 Mo. 523.)

Franchises of Express Companies assessable by State Board of Equalization. (R. S. 1899, Chap. 149, Art. IX and XII; Laws of 1901, p. 232; R. S. 1909, Chap. 117, Art. XIII.)

Telephone, Conduit, Water, Electric Light, Gas Companies and all other similar corporations, owning, operating and managing public utilities and quasi public corporations possessing special and peculiar privileges and authorized by law to perform any public service, how taxed. (Laws 1901, p. 232; R. S. 1909, Secs. 11551, 11552.)

Collection—Taxes due city from railroads are due and payable to the County Collector. (R. S. 1899, Sec. 9368; R. S. 1909, Sec. 11587.)

Authority of city to sue in its own name for taxes assessed against railroads. (Kansas City vs Railroad, 81 Mo. 285; City of St. Joseph vs Railroad, 118 Mo. 671, l. c. 685, 686.)

See R. S. Mo. 1899, Secs. 9373 and 9374, R. S. 1909, Secs. 11592 and 11593) requiring all suits to be prosecuted in name of State ex rel. Collector of County.

Sec. 8. Every Property Owner to Deliver to Assessor Complete List of Property, Etc.—Assessor to Receive List, When—To Furnish Blanks.—It shall be the duty of every person owning or having under his control any personal property subject to municipal taxation for any fiscal year to deliver to the City Assessor, at his office, on or before the fifteenth day of February next preceding such fiscal year, a true and complete list thereof, with the actual cash value of such property. On and after the first day of January the Assessor shall attend in person or by deputy at his office, on every week day up to and including the fifteenth day of February following, from the hour of eight o'clock in the forenoon until six o'clock in the afternoon, for the purpose of receiving the lists of property and statements of merchants and others by this Charter required to be delivered to him, and shall at all times keep on hand and furnish

to persons lawfully requiring the same, all necessary blanks and forms for lists and statements required by this Charter.

See note to next following section.

It is duty of curator to list property in his charge for assessment. Curator discharged in February should have given in list in preceding January and

retained sufficient to pay taxes. Failing in this he is personally liable for taxes. (Kansas City vs Simpson, 90 Mo. App. 50; State ex rel. vs Burr, 143 Mo. 209.)

Sec. 9. Verification of Lists—Failing to Furnish List—Penalty.—The Assessor and his deputies shall be authorized to administer oaths and affirmations, and may examine on oath any person touching the personal property for which he is liable to be assessed, or the value thereof, or the amount of goods, wares and merchandise owned or kept by him as a merchant; and may, by a notice delivered to any person or left at his residence, office or place of business, require such person within five days to deliver to him at the Assessor's office any list or statement necessary for the purpose of making the assessment, and to verify the same by affidavit; and any person failing or refusing to verify such list, when thereto requested by the Assessor, or to be examined, or answer on oath, regarding his property and merchandise, when thereto requested by the Assessor, or to deliver and verify such list and statement when notified by the Assessor so to do, shall forfeit to the city the sum of one hundred dollars, to be recovered in an action therefor in the name of the city, to be instituted under the direction of the Comptroller before the Municipal Court or any court of competent jurisdiction, and the Assessor shall assess such person according to the best information he can get.

Assessment lists, whether made by taxpayer or by assessor, are only memoranda for the personal use of assessor in making up assessment book. They are not evidence in suit for collection of taxes assessed. (State ex rel. vs Carr, 178 Mo. 229, 1. c. 238.)

The tax books are the primary evidence. (State ex rel. vs Birch, 186 Mo. 205, 1. c. 214.)

The assessor is not bound to the value fixed by tax payer in list furnished assessor. Law same in regard to both real and personal property. (State ex rel. vs Stamm, 165 Mo. 73)

Taxpayer cannot be heard to question validity of assessment if value is fixed by his agreement. (Kansas

City ex rel. vs Holmes, 127 Mo. App. 620; State ex rel. vs Stamm, 165 Mo. 73.)

One who makes out and signs assessment list furnished by assessor is not in position to complain that list did not specify property by classes but made lumping or total valuation. (City of Lexington ex rel. vs Bank, 165 Mo. 671.)

Failure of assessor to list various pieces and kinds of personal property assessed is mere irregularity. If tax payer refuses to list his property and assessor makes assessment in lump sum on best information and no appeal is taken he cannot complain in

action for collection of tax that assessment was not itemized. (State ex rel. vs Cummings, 151 Mo. 49.)

Difference between assessment for taxation and levying tax. (Kansas City vs Railroad, 81 Mo. 285.)

When right to assess for taxation without list signed by taxpayer at-

taches. (State ex rel. vs Cummings, 151 Mo. 49; State ex rel. vs Casey, 210 Mo. 235; State ex rel. vs Spencer, 114 Mo. 574.)

Validity of added assessment is not affected by failure to impose penalty. (State ex rel. vs Baker, 170 Mo. 383.)

Sec. 10. Corporations and Companies—Assessment of Property of—Bank Stock—Lists and Assessment of—Lien—Failure to Furnish List—Penalty.—The property of all corporations and companies within the city, except incorporated banks and such other corporations as are exempted by State law, shall be assessed and taxed as the property of individuals is assessed and taxed. All shares of stock in foreign corporations, or in corporations whose property is liable to municipal taxation, but the assessment of which is not otherwise provided for, shall be assessed to the holder of such shares. The stock of incorporated banks and other corporations taxable in the same manner as incorporated banks, whether organized under the laws of this State or of the United States, shall be assessed and taxed in the following manner: The president or other chief officer of any such bank or other corporation shall each year, within the time prescribed by law for listing personal property, under oath, deliver to the Assessor a list of all shares of stock held therein, and the names of the persons holding the same on the first day of January of each year, together with a list of all real estate belonging to such corporation and lying within the limits of the city (which said real estate shall be omitted by the Assessor from his assessment of taxable real estate), and shall also state the actual cash value of such stock; and such stock shall be taxed at its actual cash value to the owners thereof as other personal property is taxed, in one list by itself on the personal property tax book of the Assessor, in a column headed by the name of the corporation whose stock is thus assessed and taxed. The taxes assessed on shares of stock embraced in such list shall be paid by the corporations respectively as agents or shareholders, and shall be a lien upon such shares from the first day of January before the fiscal year for which the same are assessed, and these corporations may respectively recover from the owners of such shares the amount so paid, or deduct the same from the dividends accruing on such shares; and the amount so paid shall be a lien on such shares respectively from the date aforesaid, and shall be paid before a transfer thereof shall be made. If any president

or other chief officer of any such corporation fail to comply with the provisions of this section, he shall forfeit to the city the sum of one thousand dollars, to be recovered by the city as plaintiff in any court of competent jurisdiction, and the Assessor shall proceed to assess the stock of such corporation as nearly correct as he may be able to do.

Manufacturing and Business Corporations.—Property of manufacturing companies and all other corporations not otherwise provided for by law shall be assessed and taxed in their corporate names. (R. S. Mo. 1899, Sec. 9153, R. S. 1909, Sec. 11357.)

Shares of stock in manufacturing and business corporations not subject to taxation. It is the property of such corporations that is taxed. (State ex rel. vs Catron, 118 Mo. 280, 1. c. 284; Valle vs Ziegler, 84 Mo. 214; Ogden vs St. Joseph, 90 Mo. 522.)

But if property of the corporation is without the jurisdiction of the city and cannot be taxed, city may tax the shares of stock owned by resident of city, and it makes no difference that the property of the corporation is located in another state and taxed there. (Ogden vs St. Joseph, 90 Mo. 522.)

Both the stock and personal property of business and manufacturing corporations could be taxed, if authorized by law, but the intent to tax both must be clearly declared. It is duplicate taxation. (Valle vs Ziegler, 84 Mo. 214; Ogden vs St. Joseph, 90 Mo. 522.)

What is discrimination in matter of taxation of corporations. (State ex rel. vs Western Union Telegraph Co., 165 Mo. 502.)

Banks.—Persons owning shares of stock in banks shall not be required to deliver list to assessor but president or other chief officer shall, under oath, deliver to assessor list of all shares of stock held therein, face value thereof, the value of all real estate represented by shares of stock, etc., which shall be valued and assessed as other property at true value in money less value of real estate represented by stock. (R. S. Mo. 1899, Sec. 9153; R. S. 1909, Sec. 11357.)

Persons owning shares of stock in banks not required to list same, but president of bank required to deliver

such list with names of shareholders, to assessor. (State ex rel. vs Merchants Bank, 160 Mo. 640, 1. c. 647; State ex rel. vs Bank of Neosho, 120 Mo. 161; Ogden vs St. Joseph, 90 Mo. 522; State ex rel. vs Catron, 118 Mo. 280; Springfield vs Bank, 87 Mo. 441; Bank vs Meredith, 44 Mo. 500; Lionberger vs Rowse, 43 Mo. 67; St. Louis Savings Ass'n vs Lightner, 42 Mo. 421.)

And failure of bank officer to furnish list to assessor affords no reason for making assessment or enforcing the tax against bank. (City of Springfield vs First National Bank, 87 Mo. 441.)

Assessment of personal taxes to be paid by a bank must be against stockholders in proportion to the value of their stock and not against bank as a corporation. (State ex rel. vs Shryack, 179 Mo. 424; State ex rel. vs Bank of Carterville, 180 Mo. 717; State ex rel. vs Miners' Bank of Joplin, 181 Mo. 1; State ex rel. vs Bank of Tipton, 196 Mo. 516.)

Such tax not a charge against bank, and is not payable by receiver of insolvent or dissolved bank corporation. (Relfe vs Columbia Insurance Co., 11 Mo. App. 374. But see State ex rel vs Trust Co., 209 Mo. 472.)

Shares of stock in banks to be assessed at actual value. (State ex rel. vs Catron, 118 Mo. 280.)

County Board of Equalization has power to increase value of banks corporate stock above that returned by the cashier. (Ward vs Board of Equalization, 135 Mo. 309.)

Personal property of private or unincorporated banks taxable where bank is located, although banker resides elsewhere. (State ex rel. vs Rogers, 79 Mo. 283.)

They are required to make return of all moneys and valuables of any description invested in or used in their business, and same is taxed as other

personal property. (State ex rel. vs Bank of Neosho, 120 Mo. 161.)

Assessment against private bank is made in name by which bank is known and under which it does business. (City of Stansberry vs Jordan, 145 Mo. 371; State ex rel. vs Rogers, 79 Mo. 283.)

State has no power to authorize taxation of national banks except on shares of bank and real estate as provided by act of congress. (Carthage vs First National Bank of Carthage, 71 Mo. 508; State ex rel. vs Shryack, 179 Mo. 424, l. c. 438.)

Capital stock of private bank invested in United States bonds, not taxable. (State ex rel. vs Rogers, 79 Mo. 283; St. Louis Association vs Lightner, 42 Mo. 421.)

Taxation of shares of stock, and of

property owned by corporation over and above its capital stock. (St. Louis Mut. Life Ins. Co. vs Charles, 47 Mo. 132.)

Building and Loan Associations.—Property of building and loan associations is excepted from taxation by state law providing for assessment and taxation of such corporations by assessing share holders on their shares and from them collecting tax. (R. S. 1899, 9154; R. S. 1909, Sec. 11358.)

Property of building and loan associations assessed or taxed in corporate name. (Kansas City vs Building & Loan Association, 145 Mo. 50.)

How assessed. (State ex rel. vs Stamm, 165 Mo. 73.)

Insurance Companies assessed in manner similar to banks. (R. S. Mo. 1899, Sec. 9153; R. S. 1909, Sec. 11357.)

Sec. 11. Assessments of Realty—Tabulated Form—Description—Survey—City Engineer—Separate Assessment—Assessment For Years Omitted.—The Assessor shall return on his assessment book of real property, in tabular form, each parcel of real estate subject to taxation, with the description and value thereof, in numerical order as to the lots and blocks or sections, or subdivisions thereof, and in a separate column the value attached by the Assessor to each parcel or description; but shall not be required to give the name of the owner of any land except as hereinafter specified. When any property is not laid off in lots or blocks, the Assessor shall describe the same by any pertinent description, and for the purpose of such description he may require the owner thereof to furnish such description. It shall be the duty of all owners of property not so laid off in lots or blocks to furnish to the Assessor a sufficient description thereof, and in case of the failure of any such owner to furnish such description at least fifteen days before the time fixed for the return of the assessment, the Assessor may require the City Engineer to make and return to him a survey of such property, and the expenses of such survey shall be returned by the Assessor, together with his assessment of the property, and shall be added to the tax to be levied upon the property and collected as a part thereof. The owner of any undivided interest in any parcel of land may furnish to the Assessor at any time before his assessment is returned a description of such parcel, with the amount of his interest therein, and the Assessor shall then assess such undivided inter-

est with the name of the owner thereof as a separate parcel; but unless such description and statement are so furnished, the Assessor shall not be required to make such separate assessment. The Assessor shall number each parcel of land assessed in the order of the same upon the assessment book. If the Assessor shall discover that any real or personal property subject to taxation for any previous year was not assessed, or for any cause has escaped taxation for such year, it shall be the duty of the Assessor, in addition to the assessment for the then ensuing year, to assess such property for the year or years in which the same was untaxed.

See note to Sec. 6, supra.

Accurate description of land is necessary to valid assessment of tax thereon. (State ex rel. vs Railway Co., 114 Mo. 1; State ex rel. vs Burrough, 174 Mo. 700; State ex rel. vs Linney, 192 Mo. 49.)

Separate and distinct parcels of land should be assessed separately unless whole is held as one parcel then it is mere informality. (Phelps vs Brumback, 107 Mo. App. 16; Yeaman vs Lepp 167 Mo. 61.)

Land must be assessed in name of owner. (Brown vs Hartford, 173 Mo. 183, 1. c. 189. But see Mathews vs City of Kansas, 80; Mo. 231, 1. c. 240.)

Who is owner. (Land & Lumber Co. vs Bippus, 200 Mo. 688; Stuart vs Ramsey, 196 Mo. 404.)

Double assessment, property assessed in name of true owner and a former owner. (Wood vs Smith, 193 Mo. 484.)

Assessment of property held in trust.

(State ex rel. vs Trust Co., 209 Mo. 472.)

Assessed value of real estate for city taxes cannot be greater than assessed value for state and county taxes, although building was constructed thereon between the time of the two assessments. (Center Building Company vs St. Joseph, 108 Mo. 304.)

Subsequently assessing tax against property that has escaped taxation for any year not unconstitutional. (State ex rel. vs Vogelsang, 183 Mo. 17.)

Back assessment of personal property should show on its face specific property omitted and unless it does so it is void. (Cape Girardeau vs Buehrmann, 148 Mo. 198.)

Property subject to, and which has escaped taxation through inadvertance of officer, is liable to taxation in hands of subsequent purchaser for the years it has so escaped. (Kansas City vs Railroad, 81 Mo. 285; State ex rel. vs Fullerton, 143 Mo. 682.)

Sec. 12. Assessment—Indorsed and Verified by Assessor—Return to Common Council.—Upon the completion of his assessment, the Assessor shall endorse upon each of his assessment books his certificate that he has made diligent efforts to ascertain all taxable property of the class or kind assessed in such books, for the fiscal year, being or situate in the city, and that so far as he has been able to ascertain, the same is correctly set forth in the book, which certificate shall be verified by his affidavit, and then return the assessment to the Common Council by delivering the same to the City Clerk at his office.

After he has completed assessment and turned over books to proper officer assessor has no authority to repossess himself of assessor's books and enter therein personal property

omitted from list furnished by taxpayer. He can only proceed at time and in manner pointed out by statute. (City of Hannibal ex rel. vs Bowman, 98 Mo. App. 103, 1. c. 108.)

Sec. 13. Board of Appeals—Appeals and Complaints—Sessions—Time Of.—The Mayor, the Comptroller, the Assessor, the President of the Upper House and the Speaker of the Lower House of the Common Council shall constitute a Board of Appeals for the hearing of appeals and complaints of any party aggrieved by the assessment as made by the Assessor. Said Board shall hold two sessions in each year, and a majority of the members shall constitute a quorum for the transaction of business. The first session shall be held for six consecutive days, beginning on the third Monday of March in each year, and the second session shall be held for six successive days, beginning on the first Monday in April of each year.

See note to Section 15.

Sec. 14. Board of Appeals—Notice of Sessions—Assessment at Office of City Clerk.—The City Clerk shall cause to be published, in at least one newspaper published in said city, and for at least five days before the day fixed by law for the first sitting of the Board of Appeals, a notice to all taxpayers of the city that the Board of Appeals will hold its annual session on the days prescribed by law, and stating the dates and the place where such Board will hold its sessions, and that in the meantime the assessment for the ensuing fiscal year will be open to the inspection of the public, at the office of the City Clerk.

Notice. (*Pacific Railroad vs Cass County*, 53 Mo. 17; *State ex rel. vs Springer*, 134 Mo. 212; *Nelson vs Gobel*, 17 Mo. 161; *Relfe vs Columbia Insurance Co.*, 11 Mo. App. 374; *State ex rel. vs Baker*, 170 Mo. 194.)

Correcting mistake in notice. Ad-

journalment for sufficient time to publish correct notice. (*Black vs McGonigle*, 103 Mo. 192.)

Appearance before board is a waiver of notice. (*State ex rel. vs Baker*, 170 Mo. 383.)

See Art. XVIII, Sec. 13, and note.

Sec. 15. Board of Appeals—Clerk of—Complaints—Hearing of—May Increase or Diminish With Valuation—Notice of Raise of Assessments—Attendance of Assessors—Form of Correction.—The City Clerk shall deliver the assessment to the Board of Appeals on the first day of the first session of said Board, and shall act as clerk of said Board. Any person aggrieved by any error in the assessment may make his complaint or appeal orally or in writing on account of such error. If the Board shall find any error in the assessment, they shall order the same to be changed and corrected, and for the purpose of making the same fair and just may increase or diminish the valuation of any property so as to make the same correspond with the valuation of other property of like character, and may permit the Assessor to add to his assessment

taxable property omitted from the original assessment; but the said Board shall have no power to change the rate or standard of valuation adopted by the Assessor. Whenever the Board of Appeals, during the first session, shall raise the assessment of any person or add any omitted property, notice shall be given by publication, for three successive days next following the adjournment of the first session of said Board, in the paper doing the city printing, of the names of all such persons and the facts of such raise or addition, and said Board shall at the second session hear and act upon complaints against such corrections. Any person aggrieved by any such error in the assessment, addition of other property, or raised assessment, may make his complaint or appeal orally or in writing. The Board shall hear and determine summarily all appeals and complaints herein provided, and may examine the person appealing, and any other person, on oath, touching the matter complained of, and may compel the attendance of witnesses and the production of books and papers. The Assessor shall constantly attend upon the sessions of the Board, and make such corrections on the assessment as may be ordered by the Board. Such corrections on the assessment shall not be made by any erasure or any interlineation, but by a separate memorandum thereof in brief form, to be entered on the assessment by the Assessor.

Board acts judicially. (*Black vs McGonigle*, 103 Mo. 192; *St. Joseph Lead Co. vs Simms*, 108 Mo. 222; *State ex rel. vs Valle*, 122 Mo. 33; *State ex rel. vs Lumber Co.*, 198 Mo. 430, l. c. 439; *State ex rel. vs Casey*, 210 Mo. 235.)

Power of board to add to assessor's list property not given in by taxpayer. (*State ex rel. vs Baker*, 170 Mo. 383.)

Whether board has power to assess property omitted by the assessor. (*Railroad vs Cass Co.*, 53 Mo. 17.)

Authority to raise assessments. (*State ex rel. vs Lumber Co.*, 198 Mo. 430, l. c. 439.)

Not essential that an opportunity for hearing should be given before increase of assessment. (*Black vs McGonigle*, 103 Mo. 192; *State ex rel. vs Springer*, 134 Mo. 212.)

Notice is to be given after raise is made in order that taxpayer may appear before board as a board of appeals and show cause why raise

should not stand. What notice required. (*State ex rel. vs Baker*, 170 Mo. 194.)

See note to preceding section and note to Art. XVIII, Sec. 13.

Certiorari proper remedy to review an increase of assessment, when. (*State ex rel. vs Springer*, 134 Mo. 212; *Railroad vs Board*, 64 Mo. 294; *State vs County Court*, 69 Mo. 454; *State ex rel. vs Bank of Neosho*, 120 Mo. 161; *Bank vs Meredith*, 44 Mo. 500; *State ex rel. vs Baker*, 170 Mo. 383; *State ex rel. vs Casey*, 210 Mo. 235.)

Injunction to restrain collections. (*Ante*, Sec. 1, note.)

On writ of certiorari only matters which appear upon face of record or go to jurisdiction of board can be reviewed. (*Ward vs Board of Equalization*, 135 Mo. 309; *State ex rel. vs St. Louis*, 207 Mo. 354, l. c. 366; *State ex rel. vs Leonard*; *K. C. Ct. of App.*; 116 S. W. 14.)

Sec. 16. Assessments to Be Returned to Lower House—Taxes to Be Levied.—At the first meeting of the Common Council for each fiscal year, the City Clerk shall present to the Lower House of the Common Council the assessment and an abstract of the gross amount of the valuation of real estate, personal property, goods, wares and merchandise of merchants, and shares of stock of corporations required to be assessed, and the Common Council shall thereupon proceed by ordinance to levy and cause to be collected the taxes for the fiscal year according to law for the general revenue, and for such an amount as may be certified to them by the Comptroller to be raised by taxation for the payment of bonds and coupons maturing during the fiscal year.

As to what taxes shall be levied by County Court for city, see note to Section 7.

Sec. 17. Assessment—Delivery to City Auditor—Auditor to Extend Taxes on Books—Form—Footings—Certified—Auditor to Deliver Tax Books and Merchant's Licenses to City Treasurer.—On the day next after the passage and approval of an ordinance levying the taxes of any fiscal year, the City Clerk shall deliver to the City Auditor the assessment for such year, and also a certified copy of such ordinance levying the taxes for that year. The Auditor shall forthwith proceed to extend the taxes for the year upon the assessment books, in appropriate columns therein to be left for that purpose, and shall also enter opposite each parcel of real estate in a column for that purpose any delinquent tax upon such parcel required by law to be so entered, and shall also extend upon said book, against any parcel returned by the Assessor as untaxed for any year or years, the amount of tax for such year or years for which the same was untaxed, according to the rate of taxation as prescribed by ordinance for such year. All taxes due and unpaid for any previous fiscal year shall be entered in proper columns headed "Delinquent Taxes," opposite the description of each lot or tract of land, stating in figures the gross amount of such taxes and the fiscal year for which levied. In extending the taxes upon personal property it shall only be necessary for the Auditor to extend the same upon the gross amount assessed against each person. After so extending such taxes and entering the delinquent taxes required to be entered, the Auditor shall foot up the gross amount of all taxes as shown by the books upon real estate, the amount of all taxes upon personal property, taxes upon shares of stock of corporations, and

merchants' license taxes, for the fiscal year; and also the gross amount of said several kinds of taxes as shown by the books, and also of all taxes for previous years for which property was untaxed, and finally shall foot up the gross amounts of all taxes of whatever nature for the **fiscal year and prior years**, and delinquent taxes, and shall enter such footings in said books in their appropriate places, and shall also make an abstract thereof at the end of the personal tax book. He shall then append to said books his certificate to the effect that the taxes therein contained are truly and correctly extended and entered according to the assessment of the property, the ordinance levying the taxes for the fiscal year, and all laws and ordinances **regulating such entries**. The book containing the assessment upon real estate when so extended and certified shall be entitled and called "Land Book of.....," and the book containing the assessment of taxes upon personal property, merchant's license, and incorporated companies, shall be entitled and called "Personal Tax Book of....." The Auditor shall also make out license for each merchant taxed as such for the fiscal year, in such form as may be prescribed by ordinance. The Auditor shall, on or before the first day of June in each year, deliver the tax books and merchants' licenses for each year to the City Treasurer, taking therefor his receipt in duplicate, which receipt shall state the gross amount of all such taxes contained in said book, and also the amount of each separate class of taxes, as shown by the footings of the Auditor of the same, one of which receipts the Auditor shall keep in his office, and the other he shall deliver to the Comptroller.

Sec. 18. Merchant's Tax—Time and Rate of Levy—Collection Of.—The tax to be levied upon the merchants shall be levied at the same time and at the same rate as that levied upon real estate for the same fiscal year, and shall be collected by way of a license tax, and shall be assessed, levied and collected in the manner now or hereafter to be prescribed by ordinance not inconsistent with this Charter, and the Common Council shall have power to pass such other ordinances for the assessing, levying and collecting and enforcing the payment of such license tax, not inconsistent with this Charter, as they may deem necessary.

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| <p>For definition of merchants, see R. S. Mo. 1899, Secs. 8549, 8565; R. S. 1909, Secs. 11626, 11642; State vs Whitaker, 33 Mo. 457; City of Kansas vs Vindquest, 36 Mo. App.</p> | <p>584; Kansas City vs Lorber, 64 Mo. App. 604; Kansas City vs Grush, 151 Mo. 128. Agent having no ownership in wares is not a merchant. (City of</p> |
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Troy vs Harris, 102 Mo. App. 51.)

A tailor making up cloth for his customers is a manufacturer, not a merchant. (State vs West, 34 Mo. 424.)

Circumstances under which one taking orders by sample for goods to be shipped from another state is a merchant. (City of Canton vs McDaniel, 188 Mo. 207.)

It is immaterial that person by his labor changes the form of goods sold. If he deals in selling them at a place occupied for that purpose he is a merchant. (State vs Whittaker, 33 Mo. 457.)

Itinerant or transient merchant. (City of Springfield vs Jacobs, 101 Mo. App. 339.)

See note to Art. III, Sec. 1, Cl. 4.

The ad valorem tax which merchants pay under this system is not a license or occupation tax, but a personal property tax. (Kansas City vs Johnson, 78 Mo. 661; Cape Girardeau vs Riley, 72 Mo. 220; State ex rel. vs Tracy, 94 Mo. 217; City of Aurora vs McGannon, 138 Mo. 38, l. c. 45, 46.)

Nor is it a police regulation. Department Store tax (State ex rel. vs Ashbrook, 154 Mo. 375.)

Liability for payment of taxes on goods and wares is not dependent upon fact of being a merchant during the fiscal year but is made to depend upon fact whether on the first day of January, and at any time within three months before such first day of Jan-

uary, he had on hand as a merchant goods, wares and merchandise. (City of Kansas vs Johnson, 78 Mo. 661, l. c. 666.)

Duty of officer charged with authority to issue merchants licenses are ministerial. Issuance may be compelled by mandamus. (State ex rel. vs Ashbrook, 154 Mo. 375; State ex rel. vs McCammon, 111 Mo. App. 626; Butler vs City of Moberly, 131 Mo. App. 172.)

A city may collect from merchants, under appropriate statutory authority, both a license charge or occupation tax and an ad valorem tax on their stock within taxing limits fixed by constitution. (City of Aurora vs McGannon, 138 Mo. 38, l. c. 46; City of Troy vs Harris, 102 Mo. App. 51, l. c. 58; City of Monett vs Hall, 128 Mo. App. 91; St. Joseph vs Ernst, 95 Mo. 360; City of Lamar vs Adams, 90 Mo. App. 35.)

Merchandise held by merchants and raw material, merchandise finished products, tools, machinery and appliances used or kept on hand by manufacturers shall constitute a class, for purpose of taxation, separate and distinct by itself. (R. S. Mo. 1899, Sec. 9396; R. S. 1909, Sec. 11340.)

Right of cities to tax and regulate occupation of merchants or manufacturers and graduate amount of annual license imposed. (R. S. Mo. 1899, Sec. 9398; R. S. 1909, Sec. 9857.)

Sec. 19. Taxes—No Demand Necessary—When Delinquent—Lien on Real Property.—No demand of taxes shall be necessary, but it is the duty of every person subject to taxation to attend at the office of the City Treasurer, unless otherwise provided by ordinance, at some time between the first day of June and the first day of October in each year, and pay his taxes; and if anyone neglects to pay them before the first day of October following the levy of the tax, the same shall be delinquent and shall thereafter bear a penalty of one per cent per month; and in computing said additional tax or penalty, a fractional part of a month shall be counted as a whole month. Taxes upon real property are hereby declared a perpetual lien thereon against all persons. The Treasurer shall continue to receive taxes after they have become delinquent and until sale.

Taxes paid under mistake of law cannot be recovered. (Couch vs Kan-

sas City, 127 Mo. 436; Christy vs St. Louis, 20 Mo. 143; Walker vs St.

Louis, 15 Mo. 563; Pacific Railroad vs Cass County, 53 Mo. 17; Brewing Co. vs St. Louis, 187 Mo. 367, s. c. 209 Mo. 600.)

It is well settled rule of law that money paid through mistake of fact may be recovered. (Brewing Co. vs St. Louis, 187 Mo. 367, l. c. 376; s. c. 209 Mo. 600.)

What is mistake of fact. (Brewing Co. vs St. Louis, 187 Mo. 367, and cases cited, 376, 377; Hethcock vs Crawford Co., 200 Mo. 170, l. c. 177.)

Taxes paid on wrong land through no fault of collector cannot be recovered. (Mathews vs Kansas City, 80 Mo. 231.)

Taxes paid under duress and what is duress. (Brewing Co. vs St. Louis, 187 Mo. 367, l. c. 377.)

If amount of tax is questioned, sum really due should be tendered and collection of excess resisted. (Pacific R. Co. vs Cass Co., 53 Mo. 17.)

Charter governs rate of interest on delinquent taxes. (Kansas City vs Payne, 71 Mo. 159; Westport ex rel. vs McGee, 128 Mo. 152; Kansas City vs Railroad, 77 Mo. 180; Seaboard Natl. Bank vs Woeston, 176 Mo. 49; Paving Co. vs Peck, 186 Mo. 506.)

But there is no lien for taxes or power to impose penalties except as is given by charter. (City of Jefferson vs Whipple, 71 Mo. 519; City of Everett, vs Marston, 186 Mo. 587, l. c. 599, and cases cited.)

City, though it has no lien, may recover an ordinary money judgment for taxes. (City of Jefferson vs McCarty, 74 Mo. 55.)

Property subject to, and which has escaped taxation through inadvertence of officer, is liable to taxation in hands of subsequent purchaser for the years it has so escaped. (Kansas City vs Railroad, 81 Mo. 285; State ex rel. vs Fullerton, 143 Mo. 682.)

Sec. 20. Taxes—May Pay on Part of Lot—Apportionment of the Assessment.—Any person may pay the taxes for any fiscal year upon part of any lot or tract of land, or upon any undivided interest therein, but not for part of a fiscal year. Before the City Treasurer shall receive the taxes on a fractional or undivided interest in a tract, the person so offering to pay shall obtain from the Assessor a certificate of the apportionment of the assessment between the fractional undivided interests. The City Treasurer shall briefly note the apportionment on the tax book and apportion the total tax in like manner and shall file the certificate in his office.

Sec. 21. Rebate—Tax Paid Within Year For Which Levied.—Any person paying taxes for any fiscal year in the year for which such taxes are levied shall be entitled to receive, and it is hereby made the duty of the City Treasurer to allow such person a rebate on such taxes so paid, as follows: On all taxes paid in the month of June a rebate of six (6) per cent; and on all such taxes paid in the month of July a rebate of four (4) per cent; and on all such taxes paid in the month of August a rebate of two (2) per cent; but no rebate shall be allowed on any such taxes paid after the month of August. The City Treasurer shall not allow any person under any circumstances whatever the benefit of the rebate allowed for payment in any month after the last day of said month.

Sec. 22. Taxes—Receipts For—Form Of—Delinquent—Special and Park Taxes—Duty of Treasurer and Auditor—Neglect of, Misdemeanor.—When any person shall pay any tax on real estate or personal property, it shall be the duty of the City Treasurer to sign duplicate receipts therefor, giving separate receipts for real estate taxes and personal property taxes. It shall be sufficient for the personal property receipt and the duplicate real estate receipts to state the name of the person for whom paid, date of payment, the total amount of the assessment, the total amount of the tax, amount of rebate, amount of penalty or interest and costs, if any, and the year paid for. The duplicate real estate receipt shall also state the tract number of all tracts of land included in this receipt. The original real estate or land tax receipt shall in addition set forth the assessed valuation and tax on each tract or parcel of real property paid for, and shall also show, under the heading of "Delinquent Taxes Unpaid," all taxes against the tract of land described therein remaining due and unpaid, as shown by the land tax book in the City Treasurer's office, giving simply the amount thereof and what year. If there are no taxes delinquent that fact should be noted by the Treasurer on said original receipt. The City Treasurer shall also note on the original land tax receipt whether or not there are unpaid special and park taxes on record in his office against the property described in said receipt. The City Treasurer shall immediately deliver all such receipts to the City Auditor, whose duty it shall be to countersign and deliver the original receipt to the payor and retain the duplicate, from which he shall from day to day make a permanent record and account, showing all the facts required to be stated in such duplicate receipt as aforesaid, so that such record shall show the amount collected by the City Treasurer each day, and the penalty or interest and costs, if any, on the same. The City Treasurer, upon receiving any tax, before delivering the receipt to the payor, shall mark the same paid and the date of payment in the proper tax book. If the City Treasurer shall hold over any tax receipt from one month to another or date back any tax receipt into the previous month or do any other act for the purpose of permitting any person to obtain any rebate or evade the payment of any penalty or interest or costs herein provided, he shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than One Hundred Dollars nor more than Five Hundred Dollars. If the City Treasurer or City Auditor shall fail or neglect to perform any of his duties as prescribed in this section.

he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Sec. 23. Taxes—Delinquent—Distrain Goods—Sale.—If any one against whom a personal tax is assessed and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city or shall be about to remove out of the city, or shall have removed or be about to remove his personal property out of the city, it shall be the duty of the City Treasurer to at once proceed to collect such personal tax by distress and sale of any personal property of such person that shall be found in Kansas City, and the personal tax book shall alone be sufficient warrant for such distress. The City Treasurer may, in his discretion, in any other case exercise the same power. When the City Treasurer distrains goods he shall keep them at the expense of the owner, and shall give notice of the time and place of the sale of the same within five days after the taking, in the manner constables are required to give notice of the sale of personal property taken under execution, and the time of sale shall not be more than twenty days from the day of taking. He shall enter upon the personal tax book a brief description of the property taken and the amount for which the same was sold. The City Treasurer shall on demand render an account in writing of the sale and charges to the owner, and pay any surplus in his hands to such owner.

Sec. 24. Taxes—Shares of Stock—Delinquent—Sale—Certificate of Purchase—May Bring Action.—If any tax, interest or costs shall remain unpaid on the first day of October on any share or shares of stock of any corporation, the shares of which are taxable under this Charter or any ordinance of Kansas City, it shall be the duty of the City Treasurer to sell such share or shares to the highest bidder at public vendue, at his office in said city, at the same time and place and under the same notice as real estate is required to be sold, describing in such notice the share or shares to be sold, substantially the same as they are described in the personal tax book, with the name of the person or persons in whose name or names such share or shares are assessed. It shall be the duty of such Treasurer to give the purchaser of any such share or shares a certificate stating the fact that the person therein named purchased the

share or shares therein described, describing them substantially in such certificate as they are described in the personal tax book. Any person or persons purchasing any share or shares of stock in any such corporation at such sale shall be entitled to have such share or shares so purchased entered upon the books of such corporation as the share or shares of such purchaser, and he shall be deemed in law and equity as the absolute owner of such share or shares. Nothing in this section shall be so construed as to prevent an action in the name of the city, before any court of competent jurisdiction, against such corporation, or any of the stockholders, to recover any tax, interest and costs remaining unpaid on any share or shares of stock of such corporation, on or after October first.

Tax books sufficient authority for levy on property. (*Higgins vs Aumuss*, 77 Mo. 351.)

Sec. 25. Taxes—Itemized Statement by Treasurer—Duty to Deliver to Comptroller, When—Verified—Form of Affidavit—Delinquent List Turned Over to City Counselor to Collect—Assistant—Fees For Collecting.—It shall be the duty of the City Treasurer, on the first Monday in December in each year, to deliver to the Comptroller a complete itemized statement of all taxes on personal property remaining unpaid for that fiscal year, which statement may be in alphabetical or other convenient order, and verified by the following affidavit: "I....., City Treasurer of Kansas City, do solemnly swear (or affirm) that the foregoing is a true and correct statement of all delinquent taxes on personal property remaining due and unpaid for the fiscal year....." The personal tax book shall be returned to the Comptroller with such statement, and if found to be correct the Comptroller shall give the Treasurer credit for the total amount delinquent. On the first Monday in January each year the Comptroller shall turn over the personal tax books to the City Counselor and instruct the City Counselor to cause the said tax to be collected by an action or attachment thereon, or other process of law, in the name of Kansas City, in any court of competent jurisdiction. The City Counselor may appoint an assistant to collect such tax, who shall receive ten per cent of all sums collected on such delinquent personal taxes, which shall be taxed up as costs in the case and collected as other costs, except that in no event shall the city be liable for the same.

Sec. 26. Taxes—Delinquent—Sale of Realty—Time and Place.—The City Treasurer is hereby authorized and directed to

collect the delinquent taxes by the sale of the real property upon which the taxes are levied. Such sale shall be begun and publicly held at the office of the City Treasurer in Kansas City on the first Monday in November in each year, beginning at the hour of ten o'clock in the forenoon and continuing until five o'clock in the afternoon, and continuing on each successive secular day, between the same hours, as long as there are bidders or until all of the tracts have been offered for sale.

Taxes are compulsory contribution by citizen to support of government and when state undertakes to sell land of citizen to satisfy this contribution it must at least substantially comply with provisions of statute which furnishes remedy. (Bland vs Windsor, 187 Mo. 108, l. c. 131.)

Strict compliance with law required where property sold without judicial determination. (Fowler vs St. Joseph, 37 Mo. 228; Stierlin vs Daley, 37 Mo. 483.)

Sale must be begun on day named or power to sell becomes functus officio. (Sullivan vs Donnell, 90 Mo. 278.)

May adjourn sale over Thanksgiving Day. (Lynch vs Donnell, 104 Mo. 519.)

Sale continued from day to day. (Sullivan vs Donnell, 90 Mo. 278; Lynch vs Donnell, 104 Mo. 519.)

Sale, how conducted. (Roth vs Gabbert, 123 Mo. 21.)

Sec. 27. Taxes—Delinquent—Notice—Time—Place—Sale—Procedure—Cost.—Notice shall be given for the sale of real property for delinquent taxes, which shall state the time and place thereof, and contain a description, substantially the same as in the land tax book, of the several parcels of real property to be sold, and all delinquent taxes thereon, and such real property as has not been advertised and sold for the taxes of any previous year or years, and on which taxes remain due and delinquent, and the amount of the taxes, penalty and costs, against each parcel of real property. The City Treasurer shall cause such notice to be published once in the daily edition of some newspaper of general circulation published in Kansas City, at least ten days before the day of sale. The newspaper to which the contract for making such publication as may be awarded shall, for the period of ten days immediately following such publication, and without extra charge, cause a notice to be inserted in large type, at the head of one of the columns upon its local page, stating the day and date upon which said publication was made; and said newspaper shall likewise, without extra charge, furnish to the City Treasurer one thousand copies of the edition containing such original notice of sale of real property for delinquent taxes. The City Treasurer shall charge and collect, in addition to the taxes and penalty on each tract of real property advertised for sale, a sum

representing the proportional cost of publishing such notice of the sale of said tract. The City Treasurer shall obtain a copy of said advertisement, together with a certificate of the due publication thereof, from the printer, publisher or business manager of the newspaper in which the same shall have been published, and shall file the same in the office of the City Auditor, and such certificate shall be substantially in the form that may be prescribed by ordinance of Kansas City or by the Comptroller.

See note to Section 38.

May include delinquent back taxes. (State ex rel. vs Tufts, 108 Mo. 418.)

When statute designates mode of proving publication this mode is only one for making proof. (Harbert vs Durden, 116 Mo. App. 512, l. c. 515; Ross vs Gates, 117 Mo. App. 237; Comfort vs Ballingal, 134 Mo. 281.)

Prior to adoption of this charter, notice posted in four most public

places was sufficient; certificate of such publication, sufficiency of. (Lynch vs Donnell, 104 Mo. 519.)

Defective advertisement. (Roth vs Gabbert, 123 Mo. 21; Nelson vs Goebel, 17 Mo. 161.)

Notice of sale not invalid because it fails to state the city or county in which the property is situated. (Comfort vs Ballingal, 134 Mo. 281.)

Sec. 28. Taxes—Sale of Realty—Tracts Separately—What Bids Accepted.—At such sale the City Treasurer shall offer separately for sale each tract or parcel of real property advertised for sale on which the taxes, penalty and costs have not been paid, and no bid shall be accepted for less than the total amount of taxes, penalties and costs then remaining due and unpaid on said property. The person who offers to pay the amount of the taxes, penalty and costs due on any tract or parcel of real property for the lowest rate of interest thereon per annum shall be the purchaser of such tract or lot; *Provided*, That no bid shall be accepted for a rate of interest exceeding twelve per cent per annum. The person purchasing any tract or parcel of real property, or part thereof, shall forthwith pay to the City Treasurer the amount of taxes, penalty and costs charged thereon, and on a failure to do so, the said tract or parcel of real property shall at once be again offered as if no sale had been made.

Sale void if each tract or parcel advertised is not sold separately; also if each tract or parcel separately taxed is not separately advertised. (Smith vs Williams Cooperage Co., 100 Mo. App. 153.)

Title of city's property is not affected by assessment or collection of taxes or sale of same by city for taxes. City is not estopped. (St. Louis vs Gorman, 29 Mo. 593; Hanni-

bal vs Heirs & Admin'r of Draper, 36 Mo. 332, l. c. 337; St. Louis Public Schools vs Risley, 40 Mo. 356; Sturgeon vs Hampton, 88 Mo. 203, l. c. 214; Wright vs City of Doniphan, 169 Mo. 601.)

But tax receipts may be admissible to show intention and understanding of parties as to boundaries or possession. (St. Louis Public Schools vs Risley, 40 Mo. 356.)

Sec. 29. Taxes—Sales of Realty—City Auditor Shall Attend and Make Record Thereof—City Treasurer's Duties.—The City Auditor shall attend all sales of real property for taxes, made by the City Treasurer, and make a record thereof in a book to be kept by him for that purpose and designated "Book of Sales," therein describing the several tracts or parcels of real property on which the taxes, penalty and costs were paid by the purchaser, as they are described in the advertisement on file in his office, and substantially the same as they are described in the land tax book, stating in separate columns the amount, as obtained from the land tax book, of each kind of tax, penalty and costs for each tract or parcel of real property, to whom sold, and date of sale and the amount of interest specified in the bid by the purchaser. The City Treasurer shall also note in the land tax book, opposite the tract or parcel of real property sold, the fact and date of such sale, and to whom sold, and the amount of interest specified in the bid by the purchaser at the tax sale.

Sec. 30. Taxes—Sale of Realty—May Re-Offer Tracts Passed For Want of Bidders—City May Buy, When—Procedure.—When all of the tracts upon which there are delinquent taxes have been offered for sale, the City Treasurer may, in his discretion or at the request of any person, re-offer any tract or tracts that have been passed for want of bidders. If any tract or parcel of real property cannot be sold for the amount of taxes, penalty and costs thereon, the City Auditor shall bid it off for the city for such amount; *Provided*, That all sales made to the city and certificates issued thereon shall draw interest at the rate of twelve per cent per annum. Whenever any person shall pay the City Treasurer a sum of money equal to the amount of all taxes, penalty, interest and costs, including cost of any suit that may be commenced thereon, on such parcel or parcels of real property at the time of such payment, the City Treasurer shall give to such person a certificate dated the day when it was issued, describing the real property bid off for the city as the same is described in the land tax book, stating the amount of each kind of tax, penalty and costs for which it was bid off to the city; also the cost of any proceedings thereon, if any; the amount paid to the City Treasurer by such person for such real property, the time when the owner of such certificate shall be entitled to a deed, and shall number said certificate to correspond with the number of the parcel of real property in the land tax book, which certificate,

before it shall be of any validity, shall be assigned to such person by the City Auditor, who shall note the same on his book of sales, and said certificate so assigned by the City Auditor shall vest all the interest of the city in and to such real property in such person, and such certificate shall be assignable to the same extent and in like manner as certificates given to purchasers at tax sales, and shall entitle such person to the same rights and privileges thereunder as if he had purchased the same at the tax sale.

Skinner vs Williams, 85 Mo. 489; *Sullivan vs Donnell*, 90 Mo. 278.

Sec. 31. Taxes—Treasurer Selling Realty on Which Taxes Have Been Paid, or Tendered—Penalty, Damages, Costs and Attorney's Fees.—If the City Treasurer or his deputy shall sell or assist in selling any real property on which the taxes for which the same is sold have been paid, or shall execute and deliver a deed for real property which has been redeemed in accordance with the provisions of this Charter or any ordinance of Kansas City, or for real property for which the amount required has been duly tendered him before the execution and delivery of the deed for same, the City Treasurer through whose negligence in the discharge of his official duties such injured party is damaged, and his bondsmen, shall be liable to such injured party to the amount of any judgment that may be rendered against him under the provisions of this Charter, in any action by or against such injured party, involving or in any manner calling in question the sale of such real property for taxes, or the title thereby conveyed or purporting to be conveyed to the purchaser at such tax sale, his heirs or assigns, in any court in this State, and for any and all amounts such injured party may be compelled to pay to redeem such real property so sold, together with the interest at the rate of one per cent a month on the amount such injured party pays on such judgment or to redeem such real property so sold from the time of such payment, and such injured party shall be entitled to recover reasonable attorneys' fees for prosecuting any action against such treasurer and his bondsmen, in case where such injured party recovers judgment.

Sec. 32. Taxes—Sale of Realty—Certificate of Purchase—Form of—Assignment of—Recorded, When.—The City Treasurer shall make out, sign and deliver to the purchaser of

any real property sold for the payment of taxes as herein provided a certificate of purchase, in substantially the following form:

"CITY TREASURER'S CERTIFICATE OF TAX SALE.

"I,, Treasurer of Kansas City, County of Jackson, State of Missouri, do hereby certify that the following described real property, viz.: situate in Kansas City, Missouri, was on the day of, A. D., duly sold by me at public sale, at my office in Kansas City, Missouri, in the manner provided by law, for the delinquent city taxes thereon for the years (or year) A. D., amounting to the sum of Dollars, including penalty and costs thereon, to for said sum of Dollars, he having publicly bid in said real property for per cent per annum, which was the lowest rate of interest obtainable.

"And I further certify that unless said real property above described is redeemed from said sale in manner provided in Article V of the City Charter of Kansas City, Missouri, the said or assigns will be entitled to a deed therefor on and after the day of A. D., on surrender of this certificate.

"IN WITNESS WHEREOF, I have hereunto set my hand this day of A. D.

"

"City Treasurer."

Such certificate of purchase shall be assignable, and an assignment thereof shall vest in the assignee all the right, title and interest of the original purchaser.

Every certificate of purchase shall be acknowledged and recorded in the same manner that deeds of real property are required to be acknowledged and recorded by the laws of this State, and any such certificate not recorded within six months shall be void.

See note to Section 40.

Giving certificate and having it recorded are necessary to validity of sale; without these acts subsequent execution and delivery of deed convey no title. (Davis vs Evans, 174 Mo. 307.)

The year upon the taxes for which sale is predicated must be correctly stated. (Bland vs Windsor, 187 Mo. 108, l. c. 131.)

What is sufficient assignment. (Pitkin vs Reibel, 104 Mo. 505; Atkinson vs Butler Improvement Co., 125 Mo. 565.)

Where purchaser writes his name on back of certificate of purchase and delivers it to assignee he thereby authorizes assignee to write above his signature formal assignment if such be necessary. (Chrisman vs Hough, 146 Mo. 102.)

Sec. 33. Taxes Paid By Purchaser—Receipts For—Special Taxes.—The purchaser of any real property sold for taxes may pay subsequent taxes thereon, including penalties and costs, if any, and shall receive from the City Treasurer, or other officer to whom the same is paid, duplicate receipts therefor. In like manner he may pay any state or county tax, whether levied before or after the date of his certificate of purchase, together with any interest, penalties or costs thereon, and receive from the officer to whom the same is paid duplicate receipts therefor. In like manner such purchaser may pay any special tax or assessment, tax bill, park tax, grading, condemnation or other special benefit levied against such tract by authority of this Charter, including interest, penalties and costs, if any.

It shall be the duty of the Auditor, upon the presentation to him of such duplicate receipts, or of any receipt or voucher showing the payment of any special tax or assessment, tax bill, park tax, grading, condemnation or other special benefit, to file the same in his office and enter a memorandum thereof upon the book of sales. He shall also endorse upon the certificate of purchase the amount of such city, state or county tax, special tax or assessment, tax bill, park tax, grading, condemnation or other special benefit, including interest, penalties and costs, if any. No state or county tax, special tax or assessment, tax bill, park tax, grading, condemnation, or other special benefit, shall be so paid or entered up unless the same be delinquent or be in default.

See Section 41, and note.

Sec. 34. Redemption—Time For—Proceedings.—Real property sold under the provisions of this article, including any real property bid off by the city, or any interest in such real property, may be redeemed by the owner, or his agent or attorney, at any time within five years from the first day on which the annual tax sale began, or at any time before the execution and delivery of the tax deed to the purchaser at the tax sale, his heirs or assigns, by the payment to the City Treasurer of the amount for which such real property was sold, together with interest thereon at the rate per cent bid per annum from the date of purchase, together with all other taxes, assessments or benefits subsequently paid by the purchaser, his heirs, or assigns, as authorized by this Charter whether state, county, park, municipal, general or special, together with interest thereon at the same rate from date of payment; *Provided, however,* That if redemption be

made within six months after the date of sale, the person redeeming shall be required to pay interest on said amounts for the full period of six months from the date of sale.

Right of mortgagee to redeem. (Davis vs Evans, 174 Mo. 307.)

Sec. 35. Redemption—Auditor to Give Statement—Certificate—Countersigned.—The City Auditor shall, upon application of any person wishing to redeem any real property sold for taxes under the provisions of this article or any ordinance of Kansas City, give to such person a statement setting forth the amount required to redeem each tract or parcel of real property described in such statement. Upon filing such statement with the City Treasurer and paying to such Treasurer the amount therein named, it shall be the duty of the City Treasurer to give such person duplicate certificates of redemption therefor, one of which shall be countersigned by and the other filed with the City Auditor, whose duty it shall be to make an entry opposite the tract or parcel of real property redeemed, on the proper book of sales in his office, showing the amount paid to redeem the same, the time when, and by whom such redemption was made, and he shall charge the City Treasurer with such amount. The City Treasurer shall make like entries in the land tax book in his office. No certificate of redemption shall be valid or received in evidence without being countersigned by the City Auditor as aforesaid.

Statement issued by auditor must include all taxes for the payment of which the property was sold. (State ex rel. vs Tufts, 108 Mo. 418.)

Sec. 36. Redemption—Money Paid For—Disposition Of.—All moneys received by the City Treasurer for the redemption of real property shall at once be paid into the city treasury to be paid out to the purchaser of such real property, his heirs or assigns, on the delivery of the certificate of purchase to the City Auditor, who shall file the same in his office and draw a warrant upon the City Treasurer in favor of the party entitled to such redemption money for the amount thereof. If no person entitled to such redemption money shall, within two years after the same is paid to the City Treasurer, appear and claim the same, all such moneys not so claimed shall be forfeited to the city and placed to the credit of the general fund.

Sec. 37. Redemption—List of Property Published Before Expiration of Time—Cost.—The City Treasurer, at least four months before the expiration of the time limited for redeeming real

property, as provided for in this article, shall cause to be published in the newspaper doing the city printing at the time, for at least twenty consecutive days, Sundays excepted, a list of all unredeemed real property, describing each tract or lot substantially the same as it was described in the land tax book, stating the amount of taxes, penalty, charges, interest and costs, calculated to the last day of redemption, due on each tract or lot, together with a notice that unless such property be redeemed on or before the day limited therefor, such real property will be conveyed to the purchaser, his heirs or assigns. The cost of such advertisement shall be charged to the party redeeming, or, if not redeemed, shall be charged to the person receiving the deed.

Sec. 38. Redemption—Copy of Published, Filing Of—Defect in List.—The City Treasurer shall obtain a copy of the advertisement required in the last section, together with the certificate of the due publication thereof, from the printer, publisher or manager of the newspaper in which the same shall have been published, and shall file the same in the office of the City Auditor; and such certificate shall be substantially in the form to be prescribed by ordinance of Kansas City; *Provided*, That no informality or defect in such advertisement, or any failure to make such advertisement or certificate, shall in any manner invalidate the sale made for taxes, or the deed made for any real property sold for taxes.

Sec. 39. Redemption—Failure Of—Tax Deed to Purchaser—Record of Costs and Expenses.—If any real property sold for taxes under the provisions of this article shall not be redeemed within five years from the day on which the annual tax sale began at which it was sold, it shall be the duty of the City Treasurer, on presentation to him of the certificate of purchase, to execute in the name of Kansas City, under his hand and the seal of Kansas City, to the purchaser, his heirs or assigns, a deed of the real property described in such certificate of purchase, remaining unredeemed, as shown by the records of his office, and shall acknowledge such deed and deliver the same to the grantee, which deed shall vest in the grantee an absolute estate in fee simple in the real property described therein, and shall convey all the right, title and estate of the former owner or owners, free from any and all incumbrances of whatsoever kind or nature, subject, however, to all unpaid state, county and city taxes, general and special taxes or assessments which are a lien

thereon. The deed executed under this article shall be called a tax deed, and shall be acknowledged and recorded in the same manner that other deeds and conveyances of real property are required to be acknowledged and recorded by the laws of the State; *Provided*, That unless such tax deed shall be filed for record in the office of the Recorder of Deeds at Kansas City within twenty days after delivery of the same to the purchaser, his heirs or assigns, it shall be void. The City Treasurer shall collect from the grantee in such deed a fee of one dollar, which fee shall include the cost of acknowledgment of the same. Any number of parcels or lots of real property bought by the same person may be included in one deed, if so required by the purchaser; *Provided, however*, That the City Treasurer shall collect an additional fee of ten cents for each parcel of real property included in such tax deed exceeding one in number. All fees collected by the City Treasurer under this section, less costs of acknowledgment, shall be paid by him into the city treasury to the credit of the general fund.

Sec. 40. **Tax Deeds—Form Of—How Executed—Prima Facie Evidence of What.**—Tax deeds executed by the City Treasurer shall be substantially in the following form:

“KNOW ALL MEN BY THESE PRESENTS, That, whereas the following described real property, viz.:, situated in Kansas City, in the County of Jackson and State of Missouri, was subject to taxation for the year (or years) A. D.; and whereas, the taxes assessed upon said real property for the year (or years) aforesaid remained due and unpaid at the date of the sale hereinafter mentioned; and whereas, the City Treasurer of said Kansas City did, on the day of, A. D., by virtue of authority in him vested by law, at the sale begun and publicly held on the first Monday of, A. D., the first day on which the annual tax sale began, expose to public sale at the office of the City Treasurer in Kansas City aforesaid, between the hours of ten o'clock in the forenoon and five o'clock in the afternoon, in conformity with all requirements of the law in such case made and provided, the real property above described, for the payment of taxes, penalty and costs then due and unpaid upon said real property, and whereas, at the place aforesaid, A., B., of the County of and State of, having offered to pay the sum of Dollars and Cents, being the whole amount of taxes,

penalty and costs then due and remaining unpaid on said real property for (here insert a description of the property sold, describing each tract or parcel separately), and payment of said sum having been by him made to said City Treasurer, the said property was stricken off to him at that price; and whereas, the said A..... B..... did, on the day of A. D., duly assign the certificate of purchase of the property as aforesaid, and all his rights, title and interest to said real property, to E..... F..... of the County of and State of; and whereas, five years have elapsed since the first day on which the annual tax sale began and the said property has not been redeemed therefrom as provided by law; and whereas, the City Treasurer of Kansas City aforesaid did, at least four months before the expiration of the time limited for redeeming said real property, publish a notice as required by law in such case made and provided, that unless said real property was redeemed on or before the day limited therefor, it would be conveyed to the purchaser or his heirs or assigns;

"Now, THEREFORE, I,, City Treasurer of Kansas City, County and State aforesaid. for and in consideration of Dollars and Cents. taxes, penalty and costs due on said real property for the year (or years) to the City Treasurer of said Kansas City paid as aforesaid, and by virtue of law in such case made and provided, have granted, bargained and sold. and by these presents do grant, bargain and sell unto the said A..... B..... (or E..... F.....), his heirs and assigns, the real property last hereinbefore described, to have and to hold unto him, the said A..... B..... (or E..... F.....), his heirs and assigns, forever, subject, however, to all rights of redemption provided by law.

"IN WITNESS WHEREOF, I,, City Treasurer of Kansas City, as aforesaid, have hereunto subscribed my name and affixed the corporate seal of Kansas City, this day of, A. D.

"(Seal)

".....
City Treasurer of Kansas City."

Said deed shall be signed by the City Treasurer in his official capacity, with the seal of the City affixed, and acknowledged by him before some officer authorized to take acknowledgment of deeds.

and when substantially thus executed and recorded shall be *prima facie* evidence in all courts of the State, in all controversies and suits in relation to the rights of the grantee in said deed, his heirs or assigns, to the real property thereby conveyed or purporting to be conveyed, that the taxes were not paid at any time before the sale; that the real property conveyed was subject to taxation for the year or years stated in the deed; that the real property conveyed had not been redeemed from the sale at the date of the deed; that tender of redemption money had not been made to the City Treasurer before the execution and delivery of the deed; that the real property conveyed had been duly assessed for the year or years named in the deed; that the taxes were levied according to law; that the real property conveyed was duly advertised for sale; that the real property was duly sold for taxes as stated in the deed; that the manner in which the assessment, levy, notice and sale were conducted was, in all respects, regular and as the law directed; that the grantee named in the deed was the purchaser, or that the certificate of purchase had been duly assigned to the grantee; that all the prerequisites of the law and ordinances of Kansas City were complied with by all the officers who had or whose duty it was to have had any part or action in any transaction relating to or affecting the title conveyed or purporting to be conveyed, from the assessment of the real property up to the execution of the deed, both inclusive; and that all things whatsoever required by law to make a good and valid sale and to vest the title in the purchaser were done.

When tax deed or records of same are shown to have been destroyed by fire secondary evidence of their contents admissible. (*Kries vs Land & Lumber Co.*, 121 Mo. App. 184.)

The year upon the taxes for which sale is predicated must be correctly stated. (*Bland vs Windsor*, 187 Mo. 108, 1 c. 131.)

Deed is void unless acknowledged; (*Graton vs Land & Lumber Company*, 189 Mo. 322.)

Does not require that tax deed shall be a literal copy of the form, but that it shall substantially comply with it. (*Skinner vs Williams*, 85 Mo. 489; *Sullivan vs Donnell*, 90 Mo. 278; *Pitkin vs Reibel*, 104 Mo. 505; *Gregg vs Jesberg*, 113 Mo. 34.)

Omission of recital that sale was "publicly" held is substantial defect. (*Bingham vs Birmingham*, 103 Mo.

345; *Sullivan vs Donnell*, 90 Mo. 278.)

Omission of words "for the payment of taxes, interest and costs then due and unpaid on said real property," is fatal defect in deed. (*Hopkins vs Scott*, 86 Mo. 140.)

Necessity of recital that sale was continued from day to day. (*Gregg vs Jesberg*, 113 Mo. 34.) See Section 26.

Tax deed must show separate sale of each tract. (*Allen vs Buckley*, 94 Mo. 158; *Smith vs Williams Cooperage Co.*, 100 Mo. App. 153.)

Tax deed may contain different tracts in different places if all have been bought at same sale. (*Allen vs White*, 98 Mo. 55.)

Contradicting recitals in deed by official records. (*Kinney vs Forsythe*, 96 Mo. 414.)

Sufficiency of description. (*Roth vs Gabbert*, 123 Mo. 21; *State ex rel.*

vs Railroad, 114 Mo. 1; State ex rel. vs Burrough, 174 Mo. 700.)

No presumptions, in absence of statutory regulations, are indulged in favor of tax proceedings or tax deeds. (Corn vs Cameron, 19 Mo. App. 573; Gregg vs Jesberg, 113 Mo. 34, and cases cited, 40; Kries vs Land & Lumber Co., 121 Mo. App. 184, and

cases cited, 191; See State ex rel. vs Bank of Neosho, 120 Mo. 161.)

See note to Section 43; Davis vs Evans, 174 Mo. 307; Bland vs Windsor, 187 Mo. 108.

Tax deed can not be made conclusive evidence of recitals contained in it. (Abbott vs Lindenbower, 42 Mo. 162.)

Sec. 41. Tax Deeds—To Defeat, What Must Be Proved—.
If Defeated, Payment to Grantee—Judgment.—In any suit or proceeding involving or in any manner calling in question the title or right of the grantee in a tax deed, or those claiming under lien of, to or in the real property conveyed or purporting to be conveyed by such tax deed, executed substantially as provided in the preceding section, the person claiming title adverse to the title conveyed or purporting to be conveyed by such tax deed shall be required to prove in order to defeat said tax deed, either that the taxes, interest and costs were paid before the sale; that the real property therein described was not subject to taxation for the year or years stated in the deed; that the real property therein described had been redeemed from the sale at the date of the deed or the tender of the redemption money had been made to the City Treasurer before the execution and delivery of the deed, in accordance with the provisions of this article; and that such redemption was had or attempted to be had for the use and benefit of the person having the right of redemption under this article; and if any person claiming title under a tax deed, executed substantially as provided for in the preceding section, shall be defeated in any suit or proceeding by or against him for the recovery of the real property conveyed or purporting to be conveyed by such tax deed, the successful claimant shall be adjudged to pay such person claiming under such tax deed the full amount of all money paid by the purchaser at the tax sale of such real property, together with interest at the rate per cent per annum bid by the purchaser at the tax sale; and also the amount of all taxes, assessments and benefits, state, county, park, municipal, general or special, paid by the purchaser, his heirs or assigns, after the date of the certificate of purchase, and entered on the book of sales, with the same rate of interest per annum, together with the costs of tax deed and fees for recording the same, also the total costs of all improvements made thereon, and all costs in the case, which judgment shall be a lien upon the real property in controversy and shall bear

interest at the same rate per annum, and may be enforced by execution as in other cases of judgments and decrees of such court against the land in controversy.

Suit brought against private owners of real estate under provisions of City Charter to recover taxes, etc., paid out under void city tax deed, does not involve title to real estate nor construction of revenue laws of state so as to give Supreme Court jurisdiction over appeal. (Russell vs Woerner, 207 Mo. 653.)

May recover taxes and assessments paid, though tax deed may be substantially defective. (Bingham vs Birmingham, 103 Mo. 345; Allen vs Buckley, 94 Mo. 158; Pitkin vs Reibel, 104 Mo. 505; Gregg vs Jesberg, 113 Mo. 34; Pitkin vs Shacklett, 106 Mo.

571; Pitkin vs Miller, 106 Mo. 577; Phelps vs Brumback, 107 Mo. App. 16.)

To maintain action for taxes purchaser at tax sale must have deed substantially in accordance with Charter provisions and must have been defeated in suit or proceeding for recovery of property and unless that prerequisite concur he cannot maintain a personal action against owner. Dismissal of an ejectment suit is insufficient. Owner of property is necessary party otherwise no defect and no successful claimant. (Russell vs Woerner, 131 Mo App. 253.)

Sec. 42. Tax Deeds—Recorded—Force Of—Possession—Received in Evidence.—Any person putting on record a tax deed, executed substantially as provided for in this Article, shall be deemed to have set up such a title to the real property described in such deed as will enable the party claiming to own such real property to maintain an action for the recovery of the possession thereof against any person claiming under the tax deed, whether such person is in actual possession of the land or not, and such tax deed shall be received in evidence without further evidence to sustain such conveyance or the title thereby acquired.

This section applies only where the land is vacant. (Callahan vs Davis, 90 Mo. 78, s. c. 103 Mo. 444.)

The remedy herein is not exclusive, and one who actually occupies the land may bring suit to quiet title against claimant under tax title. (Apperson vs Allen, 42 Mo. App. 537. See Northcutt vs Eager, 132 Mo. 265.)

One claiming under tax sale has constructive possession so as to maintain action of trespass for cutting timber. (Kries vs Land & Lumber Co., 121 Mo. App. 134; See note to next section.)

Sec. 43. Tax Deeds—Action Against Grantee—Limitation. Any suit or proceeding by or against the purchaser at a tax sale, his heirs or assigns, for the recovery of the real property, or any interest therein, sold for taxes, or any suit or proceeding to defeat or avoid a sale or conveyance of real property sold for taxes under

the provisions of this Article, shall be commenced within three years from the time of recording the tax deed, and not thereafter.

Three years limitation valid. (*Bird vs Sellers*, 122 Mo. 23; s. c. 113 Mo. 580; *Hill vs Atterbury*, 88 Mo. 114; *Chrisman vs Hough*, 146 Mo. 102), and begins to run in favor of tax deed not void in its face, from the time it is recorded. (*Skinner vs Williams*, 85 Mo. 489.)

This limitation has no application except where tax deed is valid upon its face. (*Hopkins vs Scott*, 86 Mo.

140; *Mason vs Crowder*, 85 Mo. 526; *Skinner vs Williams*, 85 Mo. 489; *Pitkin vs Reibel*, 104 Mo. 505; *Kinney vs Forsythe*, 96 Mo. 414; *Blodgett vs Schaffer*, 94 Mo. 652; *Callahan vs Davis*, 90 Mo. 78; *Callahan vs Davis*, 125 Mo. 27; *Wilson vs Purl*, 133 Mo. 367; *Smith vs Williams Cooperation Co.*, 100 Mo. App. 153, l. c. 163 and cases cited.)

Sec. 44. Redemption After Delivery of Deed—Equitable Action—Prerequisite.—Any person entitled to redeem real property sold for taxes under the provisions of this Article, after the execution and delivery of the deed for the same, shall redeem the same by an equitable action, in which all persons claiming an interest in the land desired to be redeemed from the tax sale as shown by the records shall be made defendants, and the court shall determine the rights, claims and interests of the several parties, including all liens for taxes and special assessments, interest and costs as provided in this Article, and claims for improvements made on the real property by any person or persons claiming under the tax title; *Provided*, that any person seeking to redeem shall, before he shall be permitted to commence or prosecute his action, deposit with the Clerk of the Court in which the action or proceeding is commenced an amount sufficient to pay the party claiming under the tax deed the amount paid at the tax sale for the real property in controversy, also the amount or amounts of all taxes, state, county or municipal, general or special, paid by the purchaser at the tax sale, or those claiming under or through him, after the date of the certificate of purchase, with penalty added as provided in this Article, and interest on all said amounts at the rate of twelve per cent per annum from the date or dates of such payments.

Sec. 45. Tax Deeds—Failure of Purchaser to Obtain—Time—Certificate Void—Title Cleared.—Unless the holders or owners of certificates of purchase for real estate purchased at any tax sale under this Article take out deed or deeds, as permitted or contemplated by this Article, within two years from and after the time for redemption expires, the said certificates or deeds and the sales on which they are based shall, from and after the expiration of

such two years, be absolutely null, and shall constitute no basis of title, and shall cease to be a cloud on the title to the real estate to which such certificates refer.

Sec. 46. Tax Sale—Valid and Invalid Taxes—Supported By Valid Tax.—No certificate of purchase or tax deed issued by authority of this charter shall be defeated or annulled by proof that part only of the taxes, assessments or benefits included in such certificate of purchase or tax deed are invalid or irregular, but such certificate of purchase or tax deed shall be binding and effective as to the valid taxes, assessments or benefits included therein, and no further; and in any redemption or proceeding permitted by this charter the amount of invalid taxes, assessments or benefits may be deducted from the amount necessary to redeem.

When part of tax is legal, and part illegal, legal part will be sustained if capable of being distinguished. (*Morrison vs Railway Co.*, 96 Mo. 602; but

if the legal cannot be separated from the illegal, the whole is bad. (*Corn vs Cameron*, 19 Mo. App. 573, 583.)

Sec. 47. Abatement of Tax—Comptroller Shall Make Record.—The Comptroller may, at any time prior to the sale of any lot or tract of land for delinquent taxes, or suit brought for personal tax, abate any particular tax because the same has been paid, or for mistake in entering it against the wrong lot or tract, or in case of any personal tax against the wrong person, and correct any mistake in computing or extending any tax so entered. He shall in each case make a permanent record of his action in making such abatements and corrections, and shall at once certify the same to the proper custodian of the books, who shall at once note such action on the proper land tax book and other proper records of the city, in such a way as to show clearly what has been done, and when, but without erasing or altering the prior entries of taxes on the book or record.

Sec. 48. Taxes—Suit to Collect in Addition to Other Remedies—Statement—Judgment.—In addition to any and all remedies by sale or otherwise, provided in this charter, the city shall have the power to enforce the collection of delinquent taxes, with all interest, costs and penalties thereon, by suit brought in the name of Kansas City in any court of competent jurisdiction. In suits for the collection of taxes on personal property, and in suits to collect the taxes on the property of railroads and other public service cor-

porations, it shall be sufficient to state the amount of tax, interest, costs and penalty claimed, the year or years for which it was levied, the owner or person liable, and that the tax has not been paid, and in such suits a personal judgment may be rendered against the person or corporation whose property has been taxed.

Holder of void tax deed is under no obligation to pay tax. (*Barber Asphalt Paving Co. vs Kiene*, 99 Mo. App. 528.)

No lien on personal property for taxes, but they constitute a preferred claim. (*State to use vs Rowse*, 49 Mo. 592; *State vs Harper*, 58 Mo. 530; *Greeley vs Bank*, 98 Mo. 458; *State ex rel. vs Tittman*, 103 Mo. 553; *State ex rel. vs Trust Co.*, 209 Mo. 472.)

Personal property cannot be taken to pay special tax for improvement of real estate. (*Higgins vs Ausmuss*, 77 Mo. 351; *Barber Asphalt Paving Co. vs St. Joseph* 183 Mo. 451, l. c. 456, and cases cited.)

Collection of personal tax will not be enjoined upon ground that law authorizing it is unconstitutional. (*State ex rel. vs Wood*, 155 Mo. 425.)

If city has authority to impose and collect taxes, its motives are irrelevant and immaterial, and it is not liable in suit for malicious prosecution. (*Brown vs Cape Girardeau*, 90 Mo. 377.)

Part only of tax illegal, when collectible. (*Morrison vs Railroad*, 96 Mo. 602; *Corn vs Cameron*, 19 Mo. App. 573, 583; *Black vs Early*, 208 Mo. 281.)

Tax books sufficient authority for levy on property. (*Higgins vs Ausmuss*, 77 Mo. 351.)

Sec. 49. Taxes—Suit to Recover on Specific Property—Parties to Suit—Effect of Judgment—City May Purchase.—In suits for the collection of taxes which are a lien upon any specific property except as in the preceding section provided for, no personal judgment shall be rendered, but the judgment shall be that the amount found due shall be levied on the real estate or property upon which the tax is a lien, which judgment shall have priority over all other liens and incumbrances, as to all parties to such suit. Judgments for taxes shall bear the same rate of interest as did the tax sued on, and a sale under execution thereon shall be free from any redemption. The city may purchase such property at execution sale and take deed to itself and acquire the same title as any other purchaser.

All persons having an interest in the land at commencement of suit should be made defendants. (*Kansas City vs Railroad*, 77 Mo. 180; *Simonson vs Dolan*, 114 Mo. 176; *Wood vs Smith*, 193 Mo. 484, and cases cited, 489, 490.)

To what extent action in rem. (*Jaicks vs Sullivan*, 128 Mo. 177; *Land & Lumber Co. vs Bippus*, 200 Mo. 688.)

Sec. 50. Suit for Taxes—More Than One Year's Taxes in One Suit—Undivided Interest—Joint and Several—Judgment. When the taxes for more than one year are due the city upon any

parcel of property, they may all be included in one suit, and when taxes on more than one parcel of land owned by the same person or persons are due, all such parcels may be included in one suit. Owners of undivided interests may be sued jointly or severally, and each, together with his interests, charged with the proper portion of the tax, though such tax may have been assessed as a whole. When any parcel of land has been included in the assessment in a larger parcel or tract, such smaller parcel shall be charged with its fair and just proportion of the tax, which shall be determined by the court. The owners of the whole of the larger parcel may be made defendants, and each parcel charged with a proper share of the tax or the owners of any one or more of the smaller parcels may be sued separately. In all such cases, the several taxes and parcels of land may be set out in one cause of action, and judgment entered against each parcel for the tax, interest, costs and penalties found due thereon.

Sec. 51. Suit For Taxes—Courts Having Jurisdiction—Judgments—Transcripts—Executions.—The municipal court of Kansas City shall have jurisdiction in all cases for the collection of taxes due the city when the amount does not exceed the sum of three hundred dollars. Defendants shall be served with summons, and the judgment shall be as hereinbefore prescribed. In case of a judgment for delinquent taxes upon real property no execution shall be issued by the municipal court, but upon filing a transcript of such judgment in the office of the Clerk of the Circuit Court of Jackson County, at Kansas City, such Clerk shall record the same in the book kept for recording transcripts of judgment before Justices of the Peace, and shall also enter such judgment on the judgment docket of such court, and execution shall issue thereon in conformity with such transcript of judgment. In the case of judgments for personal taxes, execution may be issued by the municipal court and the same may be enforced in the same manner as judgments of Justices of the Peace. In such suits all process and executions shall be directed to, served and returned by any police officer of Kansas City or any constable of Jackson County.

Sec. 52. Suit For Taxes—Procedure.—The proceedings in such suits for the collection of taxes shall, in all respects not herein provided for, conform as near as may be to the practice and procedure in civil cases, including the sale under execution and making deed to purchaser.

Sec. 53. Tax Books and Records—Evidence—Copy Of—

The tax book and all other books and papers made or kept by the Auditor, Treasurer, Assessor or other officer of the city, in any manner relating to any tax, shall be received in all courts as evidence of all the facts stated therein, and of the validity of the tax, costs, interest and penalty therein appearing, and a copy of so much of any of the aforesaid books and papers as relates to the tax in question, certified to by the Auditor or any other officer of said city having the same in charge, shall be received in evidence in like manner and with like effect.

Assessment lists, whether made by taxpayer or by assessor, are only memoranda for the personal use of assessor in making up assessment book. They are not evidence in suit for collection of taxes. (State ex rel. vs Carr, 178 Mo. 229.)

The tax books are the primary evi-

dence. State ex rel. vs Birch, 186 Mo. 205, l. c. 214.)

Abbreviations are sufficient. "Ex" for except, "a" for acres and "Cor." for corner sufficient in assessment, being in every day use and well understood. (State ex rel. vs Valle, 122 Mo. 33.)

Sec. 54. Attorney's Fees—Judgment—Costs.—

An attorney's fee of ten per centum on the amount of the judgment shall be taxed up as costs in every proceeding for the collection of delinquent taxes under this Article. Such amount of ten per centum shall be taxed and collected as other costs in the case; *provided*, that no such fee shall be paid until the judgment and other costs in the case are paid.

Attorney's fee of ten per cent, legal. (Kansas City vs Johnson, 78 Mo. 661.)

But an ordinance providing for an

unreasonable attorney's fee would be void. (Cape Girardeau vs Riley, 72 Mo. 220.)

ARTICLE VI.

CONDEMNING AND DAMAGING PRIVATE PROPERTY.

Section.

1. Taking or Damaging Private Property for Public Use—Compensation—How Ascertained—Proceedings, Where Conducted—Process—Record.
2. Description of Property Taken or Damaged—Benefit Limits—Plat, Description and Names—Date Fixed for Empanelling Jury, Notice, Publication of—Personal Service of—Parties—Parties not Served, Alias Order Issued—Affidavit of Publisher, Evidence When—Jury Empaneled—Policeman May Serve Notice—Disinterested Freeholder Construed.
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7. Appeal—Circuit Court—Dismiss-

Art. 6. CONDEMNING AND DAMAGING PRIVATE PROPERTY.

- sal—Interest On Judgment From Date of Dismissal—Appeal From Circuit Court—Bond for Costs—Interest on Judgment.
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Sec. 1. Taking or Damaging Private Property for Public Use—Compensation—How Ascertained.—Whenever the city shall, by ordinance, provide for establishing, constructing and maintaining for public use any viaduct or bridge or any approach thereof, or right-of-way therefor, or any tunnel, cut or subway and approaches, or right-of-way therefor or for establishing, opening, widening, extending or altering for public use any street, avenue, alley, levee, wharf, market place, public square, site or lands for hospital, fire department, building, public museum or gallery of art, police station, water department, workhouse, morgue, sewage or garbage reduction plant, route for sewer of any kind, water or gas mains or for altering the channel of any water-course, or for the right to use any stream or right-of-way for drainage purposes, or for the vacating of any street, or whenever any private property is taken or damaged for any other public purpose whatsoever, and not herein specifically enumerated, and it becomes necessary to take or damage any private property for such public use, just compensation shall be paid to the owner or owners of such private property taken or damaged which shall be ascertained and assessed by a jury of six disinterested freeholders of the city by proceedings prescribed by ordinance, and as in this Charter provided, or as otherwise provided by law.

Proceedings, Where Conducted—Process—Record.—Unless otherwise specified by ordinance, and except as elsewhere in this Charter prescribed, such proceedings shall be conducted in the Municipal Court of the city which shall, while in the discharge of such duty, have and exercise the powers of the circuit court for the preservation of order and enforcing process issued in the course of the proceedings, and may summon and compel by attachment, or otherwise, the attendance of witnesses and jurors, and fine and commit any person guilty of misdemeanor or contempt, and the judge of such court shall pass on the competency of evidence,

and instruct the jury on questions of law arising. The Clerk of such court shall issue process and record orders made by said court.

Power to condemn for sewer right of way. (South Highland Land & Improvement Co. vs Kansas City, 172 Mo. 523, 1. c. 535.)

How streets are dedicated and established. See Art. III, Sec. 1, Cl. 11.

Vacation of streets. See Art. IX, Sec. 9, and note, Art. III, Sec. 1, Cl. 11, note.

Power of city to condemn land for parks, boulevards, etc. see Art. XIII, Sec. 5 and note, also Section 7 and note.

Right of eminent domain is conferred by state, through its constitution, on cities of 100,000 inhabitants.

Special charter supersedes general statutes where two conflict as to mere municipal regulation, and condemnation proceeding to acquire lands for streets, parks, water works, sewers and the like clearly fall within municipal regulation. (Kansas City vs Marsh Oil Co., 140 Mo. 458; Fruin-Bambrick Construction Co. vs St. Louis Shovel Co., 211 Mo. 524, 1. c. 533; Brunn vs Kansas City, 216 Mo. 108.)

Power and authority to condemn property rests with municipal authority and property cannot be condemned or public streets opened at instance of any particular individual. (Kansas City vs Railroad, 189 Mo. 245, 1. c. 256.)

City cannot condemn private property for a private use. City cannot create a street in name of public for purpose of vacating it in interest of individual. (Kansas City vs Hyde, 196 Mo. 498; Deschner vs St. L. & M. R. R. Co., 200 Mo. 310, 1. c. 330; Riggs vs Met. Street Ry. Co. 216 Mo. 304.)

Public use defined. (American Telephone & Telegraph Co. vs Railroad Co., 202 Mo. 656, 1. c. 680.)

Necessity and expediency of condemnation of land is determined by city. Whether such taking is for a public use, is a judicial question. (Cape Girardeau vs Houck, 129 Mo. 607; Kansas City vs Baird, 98 Mo. 215; Kansas City vs Hyde, 196 Mo. 498; Prior vs Construction Co., 170

Mo. 439; American Telephone & Telegraph Co. vs Railroad, 202 Mo. 656.)

Existence of power to take property may be controverted at any stage of proceedings. (City of Hopkins vs Railroad, 79 Mo. 98.)

Additional servitude. Elevated railway. (De Geoffroy vs Merchant's Bridge & Terminal Co., 179 Mo. 698.)

Whether city has already acquired property sought to be condemned is triable in such proceedings only, and not in suit to enforce tax bills or enjoin their collection. (Buddecke vs Ziegenhein, 122 Mo. 239; Michael vs St. Louis, 112 Mo. 610; Eysell vs St. Louis, 168 Mo. 607, 1. c. 616, St. Louis vs Annex Realty Co., 175 Mo. 63.)

Property condemned for one public use cannot be appropriated to different use. (Price vs Thompson, 48 Mo. 361; Sugar Refining Co. vs Elevator Co., 82 Mo. 121; Board of Regents vs Painter, 102 Mo. 464; State ex rel. vs Longfellow, 169 Mo. 109.)

Definition of the word "property." (St. Louis vs Hill, 116 Mo. 527; Carpenter vs Reliance Realty Co., 103 Mo. App. 480; Carter vs Bolster, 122 Mo. App. 135, 1. c. 141.)

What is taking property. (Tegeler vs Kansas City, 95 Mo. Ann. 162.)

Cannot establish a building line on a boulevard without compensation to property owners. (St. Louis vs Hill, 116 Mo. 527; St. Louis vs Dorr, 145 Mo. 466, 1. c. 485.)

Permitting dirt, in grading street under contract, to roll down upon premises of adjoining proprietor, is a taking of private property. (Broadwell vs Kansas City, 75 Mo. 213.)

May condemn or establish street across railroad tracks, and Council is the proper judge of the necessity thereof. (Hannibal vs Railroad, 49 Mo. 480; Kansas City vs Mastin, 169 Mo. 80.)

As the individual holds his property subject to the right of eminent domain so does the corporation. (American Telephone & Telegraph Co. vs Railroad, 202 Mo. 656.)

Dedication for street on condition that extension thereof be dedicated by owners and no benefits assessed

against dedicators cannot be accepted by city and condemnation proceedings taken for such extension. (St. Louis vs Meier, 77 Mo. 13.)

But where proposed extension of street would end in cul de sac, it may be shown that a like proceeding is pending to establish another street to connect with the proposed extension and court may withhold judgment in one case until judgments are rendered in both. (Kansas City vs Hyde, 196 Mo. 498.)

City takes property of citizen under power of eminent domain. It raises money to make compensation therefor under power of taxation. While under Charter but one proceeding is provided for accomplishment of both objects yet they are distinct in char-

acter. (St. Louis vs Buss, 159 Mo. 9, l. c. 12.)

When land is taken by condemnation, the title passes by mere operation of law. (Tamm vs Kellogg, 49 Mo. 118.)

Power of Mayor and Council to establish boulevard not abrogated by park amendment to Charter, now Art XII, Sec. 5. (Kansas City vs Smart, 128 Mo. 272.)

Mayor under former Charter and Municipal Court under present Charter, has same power as Circuit Court for conducting these proceedings and the same presumptions are indulged in favor of correctness of his actions. (Kansas City vs Smart, 128 Mo. 272; Leonard vs Sparks 117 Mo. 103, l. c. 108.)

Sec. 2. Description of Property Taken or Damaged—Benefit Limits—Plat, Description and Names—Date Fixed for Empanelling Jury.—When any ordinance shall provide for taking or damaging private property for any public use specified in the preceding section, the city shall by ordinance describe the private property to be taken or damaged, and if the same is to be paid for wholly or in part by special assessments, shall prescribe the limits within which private property shall be deemed benefited by the proposed improvement, and be assessed and charged to pay compensation therefor; and thereupon the City Engineer or one of his assistants shall make out and deliver to the Clerk of the Municipal Court a statement by plat, map or otherwise, containing a correct description of the several lots or parcels of private property to be taken or damaged, with the respective names of the owners and parties interested therein so far as known, who may be such at the time said ordinance takes effect. Said court shall thereupon, by order, appoint a day and place for empaneling a jury to ascertain the compensation for the property to be taken or damaged and to make assessments to pay for the same, which order shall recite the number and title of said ordinance with the date when it took effect, and contain a description of the property proposed to be taken or damaged as contained in said ordinance and also a description of the property contained in the benefit district as described in said ordinance, and naming the day and place fixed by said court for impaneling a jury to ascertain the compensation for the property to be taken or dam-

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aged and to make assessments to pay for the same, which order shall be directed to all persons whom it may concern, without naming them.

Notice, Publication of—Personal Service of—Parties.—A copy of such order shall be published in a newspaper at the time doing the city printing, for four successive weeks, the last insertion to be not more than one week prior to the day set for said hearing. The parties owning or having an interest in the real estate proposed to be taken or damaged shall be served with a copy of said order, either by delivering to each of such owners or parties interested, at any time before the day fixed therein for the hearing, a copy of the order or by leaving such copy at their usual place of abode with some member of their respective families over the age of fifteen years, and in case of corporations, by delivering a copy to the president, secretary or some managing officer thereof, or to any agent of such corporation in charge of any office or place of business of such corporation in Jackson County, Missouri.

Parties Not Served, Alias Order Issued.—If service of such notice cannot be made on any or all of such parties as above described, within said city, the return on such notice shall so state, and thereupon an alias order specifying a different date may be made by said court, if deemed advisable, notifying such unserved parties of the facts as in case of the original notice above provided. Said cause may be continued or postponed from time to time. It shall not be required in any case to bring in any person other than the owners of the property or those interested therein who were such at the time of the taking effect of such ordinance; and the parties claiming or holding through or under such owners or parties interested, or any of them, shall be bound by the proceedings as fully as if they were brought in; but any person having an interest in the real estate to be affected by the proceedings may, upon application and entering their appearance, be made parties thereto; but no notice of said proceedings shall, in any case, be necessary to the validity thereof, except the publication of the order as herein provided. Notice so given by publication shall be sufficient to authorize the court to hear and determine the cause and to make any finding or order or render any judgment therein as fully as though all the parties interested at the time of the taking effect of such ordinance, or at any time thereafter, had been sued by their proper names and had been personally served.

Affidavit of Publisher, Evidence, When—Jury Empaneled.—Affidavit by the publisher, manager or any person connected with the newspaper in which such order was published, accompanied with a printed copy of the notice, shall be *prima facie* evidence of the publication of such order as herein required.

Policeman May Serve Notice.—The service of any notice, process or order, required by this Article, may be made by a policeman of the city, or by any constable or officer authorized to serve judicial writs; and any return of service by a policeman, constable or other officer shall be evidence of the facts therein stated. After notice has been given as herein provided and upon the day fixed for impaneling a jury, or upon a day to which such hearing has been adjourned, the Municipal Court shall appoint and cause to be impaneled a jury composed of six men who shall be disinterested freeholders of the city, who shall receive such compensation as shall be provided by ordinance, which jury shall hear the evidence and view the property to be taken and damaged, or assessed with benefits.

"Disinterested Freeholder" Construed.—The term "disinterested freeholder" as used in this Charter shall not be so construed or defined as to exclude or disqualify any person interested in property by reason of the fact that he is a trustee in a deed of trust upon property taken or damaged or within the benefit district.

Power to Assess Benefits.—It is within power of Legislature to create special taxing district and to charge cost of local improvement in whole or part upon property in said district, either according to valuation or superficial area or frontage. (*Meler vs St. Louis*, 180 Mo. 391; *Heman Construction Co. vs Railroad*, 206 Mo. 172, 1. c. 179.)

The right to levy taxes, either general or special, is vested primarily in legislature, may be, and generally is delegated to legislative body of municipality. Only subject of inquiry is whether municipality acted within its powers. (*Kansas City Grading Co. vs Holden*, 107 Mo. 305.)

Distinction between assessment of benefits against property in condemnation proceedings and for local im-

provements. (*St. Louis vs Buss*, 159 Mo. 9, 1. c. 12; *Eysell vs St. Louis*, 168 Mo. 607 1. c. 621; *St. Louis vs Lawton*, 189 Mo. 474, 1. c. 484; *St. Louis vs Brinckwirth*, 204 Mo. 280; *Keith vs Bingham*, 100 Mo. 300.)

Benefits valid, though street impassable until graded. (*Kansas City vs Baird*, 98 Mo. 215.)

Assessment of benefits upon lots collectively instead of separately, illegal. (*St. Louis vs Provenchere*, 92 Mo. 66; *Hannibal vs Richards*, 35 Mo. App. 15.)

Property exempt from general and special taxation may be liable for special benefit assessments. (*State ex rel. vs Kansas City*, 89 Mo. 34; *Sheehan vs Hospital*, 50 Mo. 155; *City of Clinton vs Henry County*, 115 Mo. 557; *Exposition Driving Park vs Kansas*

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City, 174 Mo. 425, l. c. 443; State ex rel. vs Kansas City, 89 Mo. 34; Corrigan vs Kansas City, 211 Mo. 608; St. Louis vs Decatur, 147 U. S. 190.)

Church property is subject to special assessment. (Lockwood vs St. Louis, 24 Mo. 20.) So is railroad property. (Heman Construction Co. vs R. R. 206 Mo. 172; Laws 1907-92-93; R. S. Mo. 1909, Sec. 9543.) But omission from assessment does not invalidate other assessments. (Kansas City vs Bacon, 147 Mo. 259; Corrigan vs Kansas City, 211 Mo. 608. Park maintenance tax.)

THE PROCEEDING.

When may be removed to Federal Court. (Union Pac. Ry. Co. vs City of Kansas, 115 U. S. 1.)

Exercise of eminent domain has never been regulated by the code of practice in this state. It has generally been governed by provisions special to the different charters. (Kansas City vs Marsh Oil Co., 140 Mo. 458; Kansas City vs Bacon, 147 Mo. 259, l. c. 272; Kansas City vs Mastin, 169 Mo. 80, l. c. 88; Meier vs St. Louis, 180 Mo. 391, l. c. 409; Morrow vs Kansas City, 186 Mo. 675, l. c. 684; Fruin-Bambrick Construction Co. vs St. Louis Shovel Co., 211 Mo. 524, l. c. 533; Brunn vs Kansas City, 216 Mo. 108.)

Parties.—Proceeding is properly conducted in name of Kansas City. (Kansas City vs Mastin, 169 Mo. 80, l. c. 92.)

It is sufficient to make those persons parties who are owners when ordinance is enacted, but it is better practice to make the persons holding title when action is commenced parties. (Stewart vs White, 98 Mo. 226; Kiebler vs Holmes, 58 Mo. App. 119.)

Mortgagee should be made party. (Longwell vs Kansas City, 69 Mo. App. 177.)

When land is taken by condemnation, title passes by operation of law. (Tamm vs Kellogg, 49 Mo. 118.)

City does not by passage of ordinance take the property. Owner at time property is taken and damages assessed entitled to compensation. (Kiebler vs Holmes, 58 Mo. App. 119.)

Purchaser of land subsequent to assessment of damages does not by virtue of his deed acquire title to damages, even though they are not expressly reserved in deed. (Hilton vs

St. Louis, 99 Mo. 199; Hull vs Phillips, 128 Mo. App. 247.)

Where title is in controversy. See Section 11, and note.

The Action.—By analogy, ordinance occupies place of petition in ordinary suit, the order or notice is the summons and process of law, the report of the jury is the verdict or special finding and that with the appointment of the jury and its entry on the city records constitute the record proper together with the judgment. (City of Tarkio vs Clark, 186 Mo. 285, l. c. 297.)

The filing of the ordinance is the only thing required as the preliminary step. (Kansas City vs Mastin, 169 Mo. 80, l. c. 92)

What is valid ordinance. See note to Art. III, Sec. 1, this volume, and Art. III, Secs. 4 and 5.

Since valid ordinance is necessary to jurisdiction of court an ordinance which is to take effect on a certain condition, is insufficient unless it be alleged and proved that the condition has been complied with. (St. Louis vs Cruikshank, 16 Mo. App. 495, l. c. 496, 497; Ranlose vs Dollman, 100 Mo. App. 347, l. c. 364.)

City must define by ordinance the benefit district and describe the land proposed to be taken. (City of Tarkio vs Clark, 186 Mo. 285, l. c. 299; Fruin-Bambrick Construction Co. vs St. Louis Shovel Co., 211 Mo. 524, l. c. 532.)

Provisions in a charter requiring the recommendation of a certain board of commissioners, preliminary to an ordinance of condemnation, are valid. (Kansas City vs Mastin, 169 Mo. 80, l. c. 93; St. Louis vs Franke, 78 Mo. 41; St. Louis vs Gleason, 93 Mo. 33; Fruin-Bambrick Construction Co. vs Geist, 37 Mo. App. 509; Bambrick vs Campbell, 37 Mo. App. 460; City of Sedalia vs Montgomery, 109 Mo. App. 197.)

The ordinance which is the basis of the proceeding cannot be amended and the proceedings continued thereunder. (Shaffner vs St. Louis, 31 Mo. 264.)

Ordinance not defective for failure to state property affected is in Jackson County. Court will presume city did not extend street beyond its jurisdiction. (Kansas City vs Vineyard,

128 Mo. 75; *Kansas City vs Block*, 175 Mo. 433.)

Record need not disclose property to be condemned is in Missouri or Jackson County. (*Kansas City vs Smart*, 128 Mo. 272; *Kansas City vs Block*, 175 Mo. 433.)

Purpose of Map.—Jurisdiction does not depend upon filing or correctness of map. (*Kansas City vs Smart*, 128 Mo. 272; *City of Tarkio vs Clark*, 186 Mo. 285, 1. c. 299.)

Process and Service.—No notice is required by constitution to be given to property owners respecting those matters which Legislature itself determines or delegates to municipal authorities. Publication of notice to property owners and opportunity to be heard is due process of law. (*Meier vs St. Louis*, 180 Mo. 391; *Fruin-Bambrick Construction Co. vs St. Louis Shovel Co.*, 211 Mo. 524, 1. c. 532; citing *Spencer vs Merchant*, 125 U. S. 345; *Williams vs Eggleston*, 170 U. S. 304.)

Neither acts of General Assembly nor Charter nor ordinances of a city can deprive a man of his day in court. (*Paving Co. vs. Ridge*, 169 Mo. 376, 1. c. 387.)

A person not served is not bound. (*Moses vs Dock Co.*, 84 Mo. 242) "The appearance of the mostly interested cannot affect the interest of others." (*Shaffner vs St. Louis*, 31 Mo. 264, 1. c. 273.)

"When a tax is to be assessed in proportion to benefits, the apportionment is a quasi-judicial proceeding in which, at some stage, the owner has the right to be heard upon the question of the amount to be assessed against his property, before a charge therefor finally attaches thereto for its payment, and to notice, not necessarily judicial in its character, but such as is appropriate to the nature and character of the proceeding, of his right to be so heard, nor need such notice be personal." (*St. Louis vs Ranken*, 96 Mo. 497, 1. c. 505.)

Distinction between notice required to be given those whose property is taken and those assessed with benefits. (*St. Louis Charter*.) (*St. Louis vs Brinckwirth*, 204 Mo. 280; *St. Louis vs Ranken*, 96 Mo. 497.)

Order must be made by court. Clerk cannot issue process without or-

der. (*Williams vs Monroe*, 125 Mo. 574.)

Sufficiency of notice. (*St. Louis vs Brinckwirth*, 204 Mo. 280, overruling *Eyssell vs St. Louis*, 168 Mo. 607.)

Not necessary that name of property owner be set out in notice. (*Kansas City vs Ward*, 134 Mo. 172.)

Names of known owners must be alleged. If unknown, there must be publication and correct description of land. (*Seiferer vs St. Louis*, 141 Mo. 586.)

What is sufficient description of land in notice. (*St. Louis vs Koch*, 169 Mo. 587.)

Unknown heirs. (*Davies vs Montgomery*, 205 Mo. 271.)

Sufficiency of service and return and amending return. (*State ex rel. vs St. Louis*, 67 Mo. 113; s. c. 1 Mo. App. 503; *Williams vs Monroe*, 125 Mo. 574, 1. c. 585; *State ex rel. vs Field*, 107 Mo. 445; *Longwell vs Kansas City*, 69 Mo. App. 177.)

Amendment rests in sound judicial discretion of court and party affected by amendment has right to notice of amendment. (*Little Rock Trust Co. vs S. M. & A. Ry. Co.*, 195 Mo. 669.)

Amendment after judgment. (*Feurt vs Caster*, 174 Mo. 289; *Wealaska Merc. & Mfg. Co. vs Lumbermen's Mutual Insurance Co.*, 128 Mo. App. 129.)

False return cannot be contradicted. Remedy is suit against officer. (*Smoot vs Judd*, 184 Mo. 508; *Regent Realty Co. vs Armour Packing Co.*, 112 Mo. App. 271.)

Service by leaving copy with member of family is constructive service and therefore statute must be substantially complied with or judgment by default will be void. (*Feurt vs Caster*, 174 Mo. 289.)

When publication may be had. (*State ex rel. vs Field*, 107 Mo. 445; *Longwell vs Kansas City*, 69 Mo. App. 177.)

Publication notice properly published in paper doing city printing although not newspaper with which Circuit Court has contracted for legal notices. (*Kansas City vs Mastin*, 169 Mo. 80, 1. c. 92.)

Sufficiency of notice by publication. (*Kansas City vs Mastin*, 169 Mo. 80, 1. c. 89, 92; *Holmes vs Kansas City*, 209 Mo. 513; see introductory note.)

Publication as to unknown heirs. (*Davis vs Montgomery*, 205 Mo. 271.)

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Affidavit of publisher is prima facie evidence of publication. Any infirmity in publication must be proved. At common law newspaper does not prove itself. What necessary to overcome presumption of validity of publication. (Ross vs Gates, 117 Mo. App. 237.)

Waiver of service or defect in service. (Leonard vs Sparks, 117 Mo. 103; Westmeyer vs Gallenkamp, 154 Mo. 28, 1. c. 35; City of Tarkio vs Clark, 186 Mo. 285, 1. c. 298; Allen vs Welch, 125 Mo. App. 278, and cases cited.)

See Art. XIII, Sec. 11.

The Jury.—Constitution is not violated by provision that damages for taking property shall be ascertained by board of six freeholders. (Kansas City vs Marsh Oil Co., 140 Mo. 458.)

Jury of six freeholders is a competent jury to try condemnation proceeding on appeal to Circuit Court. (Kansas City vs Hill, 80 Mo. 523.)

A municipality is not an "incorporated company" within the meaning of Sec. 4, Art. XII, Constitution; definition of municipal corporation. Incorporated company waives common law jury by not demanding it. (Kansas City vs Vineyard, 128 Mo. 75; Kansas City vs Smart, 128 Mo. 272.)

Judgment not invalid on collateral attack because record does not affirmatively show that jury was composed of "disinterested freeholders." (Leonard vs Sparks, 117 Mo. 103.)

Not so on appeal. (City of Tarkio vs Clark, 186 Mo. 285.)

Ground of challenge to juror must

be stated. (Kansas City vs Smart, 128 Mo. 272; State vs Myers, 198 Mo. 225, 1. c. 248.)

If juror die pending condemnation proceeding there must be trial de novo. (Anderson vs St. Louis, 47 Mo. 479.)

See Section 5.

The Evidence.—See Sec. 3, and note.

The Verdict and Judgment.—See Section 4, and note.

In proceedings of eminent domain every material requirement of the law authorizing such proceeding must be strictly complied with; and unless it affirmatively appear upon the face of the proceedings that every essential prerequisite of the law conferring the authority has been complied with, such proceeding will be void. (St. Louis vs Koch, 169 Mo. 587, 1. c. 591 with citation of numerous cases; Spurlock vs Dornan, 182 Mo. 242, 1. c. 250; City of Tarkio vs Clark, 186 Mo. 285; St. Louis vs Gleason, 93 Mo. 33, 37-38; Schaffner vs St. Louis, 31 Mo. 264; St. Louis vs Cruikshank, 16 Mo. App. 495 1. c. 497; State ex rel, vs St. Louis, 67 Mo. 113 1. c. 117.)

"Unreasonable nicety is not required." (St. Louis vs Franks, 78 Mo. 41, 1. c. 43.—Quoting Dillon.)

Every presumption is indulged in favor of jurisdiction of court of general jurisdiction and this applies to condemnation proceedings. (Buddecke vs Ziegenhein, 122 Mo. 239; In re Bledsoe Hill 200 Mo. 630.)

Sec. 3. Jury to Ascertain Just Compensation.—The jury impaneled under the provisions of this Article shall ascertain the just compensation to be paid as follows:

First: Actual Value, When—For each piece of private property taken when the public use thereof shall be such that the city must have the exclusive possession and control thereof, the actual value of the property taken.

Second: Damage From Partial Use of Private Property.—For each piece of private property taken where the public use thereof may be such that the city need only have such possession and control as will not wholly exclude the possession and beneficial use thereof by the owner or owners, the actual damage from the public use specified in the ordinance.

Third: Damage When Use of City's Property Injures Private Property.—For all damages to each piece of private property not actually taken so as to give the city the possession or control of the same, the actual amount of the damages such property may sustain from the use of the private property taken for the public use for which it may be taken, including all that the city from time to time may do or cause to be done in, with, or upon the private property so taken.

Compensation for Private Property Used or Damaged—How Paid—Interested Parties May Appear—Jury to Examine Property—Removal of Improvements—Verdict, Signing and Form of—Duties of Engineer and Assessor.—To pay such compensation the jury shall assess against the city the amount of benefit to the city and public generally, inclusive of benefit to any property of the city, and the balance of such compensation they shall assess against the several lots and parcels of private property within the benefit district, exclusive of the improvements thereon, deemed benefited by the proposed improvement as determined according to the preceding section; each lot or parcel of ground to be assessed with an amount bearing the same ratio to such balance as the benefit to each lot or parcel bears to the whole benefit to all the private property assessed. Parties interested may submit evidence to the jury and the latter shall examine personally the property to be taken, damaged and assessed. The party owning any property taken may remove any improvements thereon, and the jury may consider this fact in determining their verdict. The verdict of the jury shall be signed by each juror and delivered to the Municipal Court and shall contain a correct description of each lot or parcel of private property to be taken and the value thereof, and of each lot or parcel of private property damaged and the amount of injury thereto, and also the amount assessed against the city, together with a correct description of each lot or parcel of private property assessed and the amount assessed against the same. The City Engineer and City Assessor or their assistants shall, when required, aid the jury to put their verdict in proper form, and the jury shall not be discharged until the Municipal Court is satisfied that the verdict is correct in form.

Adjournment of Proceedings—Jury Failing to Agree.—The Municipal Court may adjourn proceedings from time to time until the matter be completed. If any jury cannot agree, the

Municipal Court may discharge them and may order the impaneling of another jury to perform the duty devolving upon the jury by this Article, and no new notice to parties interested shall be necessary beyond such order, which order must be made on the day of discharging any jury and shall fix the time and place for impaneling a new jury, or nothing further shall be done under the ordinance and all the proceedings shall be void. Said order shall be duly recorded by the Clerk of the Municipal Court.

Juror Disabled, Proceedings.—If in any proceeding any juror becomes disabled, or, for any reason, unable to act as a juror in the case, the Court shall have power to fill the vacancy by selecting another juror, and the case shall be tried before the entire jury *de novo*, or the Court may discharge the jury and impanel a new jury as in this Article provided.

What is property and what is taking property. See note to Section 1.

The owner of property taken in condemnation under the constitution is entitled to have damages as compensation determined by a jury or board of not less than three freeholders, as may be prescribed; but the constitutional provision does not apply to special benefits to the owner's lots resulting from the improvement, but the Charter provides that they be ascertained by the Commissioners, subject to the power of the court to review their appraisal and modify same; and such modification is not an impairment of the right to a jury. (*St. Louis vs Buss*, 159 Mo. 9 l. c. 13.)

See Jury, note to Section 2.

Damages—Constitution provides that private property shall not be taken or damaged for public use without just compensation. (Const., Art. III, Sec. 21.)

Words "just compensation," have same meaning they have when used in every day business transactions. (*Railroad vs Brick Company*, 198 Mo. 698.)

The proper amount of compensation for private property taken for a public use cannot be fixed by the Legislature. What is just compensation must be determined by a jury or appraisers. (*Co. Ct. vs Griswold*, 58 Mo. 175, l. c. 199.)

Measure of damages for land taken. (*Railroad vs Knapp, Stout & Co.*, 160 Mo. 396.)

In determining damages for land taken, reference should be had to use for which property is suitable, having regard to existing business or wants of community or such as may be reasonably expected in immediate future. (*Met. Street Ry. Co. vs Walsh*, 197 Mo. 392, l. c. 418.)

When part only of real estate is taken measure of damages is difference between fair market value of whole tract before and fair market value after appropriation. (*St. Louis Belt & Terminal Ry. Co. vs Real Estate Co.*, 204 Mo. 565, l. c. 575.)

Consequential damages resulting by appropriation of property. (*Hannibal Bridge Co. vs Schaubacher*, 57 Mo. 582; *Railroad Co. vs Pfau*, 212 Mo. 398; *Railroad vs McGrew*, 104 Mo. 282; *St. Louis vs Abeln*, 170 Mo. 318, l. c. 326; *Railroad vs Knapp, Stout & Co.*, 160 Mo. 396.)

Damages condemning sewer right of way where sewage pollutes stream. (*Mining Co. vs City of Joplin*, 124 Mo. 129; *Smith vs Sedalia*, 182 Mo. 1.)

Proceeding for condemnation of property and for grading subsequent to condemnation are distinct and separate unless authorized by same ordinance in compliance with Section 14 of this article and cost of subsequent

grading is not properly allowed as damages. (*Kansas City vs Railroad*, 187 Mo. 146, 1. c. 156.)

Stone is a component part of land and its separate value as personal property cannot be shown. (*Railroad vs Real Estate Co.*, 204 Mo. 565.)

Railroad—Measure of damages where street crosses it. (*Kansas City vs Belt Railway*, 102 Mo. 633.)

A railroad company is not entitled to have assessed as damages cost of certain structures and fixtures which a condition of its franchise required it to put in at its own expense when street should cross track. (*Kansas City vs Railroad*, 187 Mo. 146.)

Improvements Taken.—If building would be entirely destroyed by removal, damages should be allowed for building. If damages are not allowed for building it cannot be removed. (*St. Louis vs Insurance Co.*, 90 Mo. 135, 1. c. 142; *Kansas City vs Morse*, 105 Mo. 510, 1. c. 518.)

Damages where improvements could be moved to other property of owner. (*Kansas City vs Morse*, 105 Mo. 510; *Railroad vs Pfau*, 212 Mo. 398; *Hannibal Bridge Co. vs Schaubacher*, 57 Mo. 582.)

In absence of the Charter provision, improvements on the property taken would belong to city. (*Kansas City vs Morse*, 105 Mo. 510; *St. Louis vs Insurance Co.*, 90 Mo. 135.)

Damage to improvements constructed by lessee. (*McAllister vs Reel*, 59 Mo. App. 70; *St. Louis vs Nelson*, 108 Mo. App. 210.)

If a lessee is conducting a business on the premises, which will be broken up or interrupted by the taking of the property for public use, he is entitled to compensation. (*St. Louis vs Abein*, 170 Mo. 318, 326, citing Missouri authorities.)

But the damage should be separately assessed and not adjusted by deduction from the sum allowed the landlord. (*St. Louis vs Abein*, 170 Mo. 318, 326.)

If landlord is not entitled to damages by reason of adverse possession, neither is lessee. (*Kansas City & N. Con. R. Co. vs Baker*, 183 Mo. 312.)

Benefits.—Assessment of benefits is a legitimate exercise of the taxing power. (*St. Louis vs Speck*, 67 Mo. 403; *Garrett vs St. Louis*, 25 Mo. 505;

Meier vs St. Louis 180 Mo. 391, 1. c. 408; *Heman Construction Co. vs Railroad*, 206 Mo. 172, 1. c. 179; *Fruin-Bambrick Construction Co. vs St. Louis Shovel Co.*, 211 Mo. 524, 1. c. 531; *Corrigan vs Kansas City*, 211 Mo. 608.)

Benefits cannot be assessed in gross upon several contiguous lots. (*St. Louis vs Provenchere*, 92 Mo. 66, and cases cited.)

Property exempt from general and special taxation may be assessed with benefits, see cases cited, note to Section 2.

Owners cannot consent to give their land on condition of exemption from assessments as it tends to render benefits assessed against others unequal. (*St. Louis v Meier*, 77 Mo. 13.)

Benefits peculiar to that portion of property not taken and not common to public at large may be set off against damages assessed for that part of property which is taken. (*Southern Illinois Bridge Co. vs Stone*, 194 Mo. 175; *State ex rel vs Kansas City*, 89 Mo. 34.)

Assessment of only one dollar against city not unjust discrimination. (*Kansas City vs Smart*, 128 Mo. 272.)

Question of whether city should be charged with benefits is one of fact and can be reviewed only on appeal or writ of error prosecuted in manner prescribed by law. (*St. Louis vs Annex Realty Co.*, 175 Mo. 63.)

Provision that entire benefits be assessed against private property, legal. (*Uhrig vs St. Louis*, 44 Mo. 458.)

City not primarily liable for benefits assessed against private property. (*Shaffner vs St. Louis*, 31 Mo. 264.)

Assessment of benefits in excess of value of lot, validity of. (*Zoeller vs Kellogg*, 4 Mo. App. 163; *Tyler vs St. Louis*, 56 Mo. 60; *St. Louis vs Frank*, 9 Mo. App. 579.)

Evidence and Instructions.—Evidence admissible of what similar property in the neighborhood sold for about the time of the appropriation. (*In re Forsythe Boulevard*, 127 Mo. 417; *Markowitz vs Kansas City*, 125 Mo. 485; *Met. Street Ry. Co. vs Walsh*, 197 Mo. 392, 1. c. 403, 404 and cases cited; *State vs Meysenburg*, 171 Mo., 1 l. c. 63.)

Exceptions to rule. (*Met. Street Ry. Co. vs Walsh*, 197 Mo. 392.)

Art. 6. CONDEMNING AND DAMAGING PRIVATE PROPERTY. Secs. 3-4.

Evidence admissible of cost of materials used in constructing building. (Markowitz vs Kansas City, 125 Mo., 485.)

Who are competent to testify as to value of real estate. (Railroad vs Brick Co., 198 Mo. 698; Railroad Co. vs Woodard, 193 Mo. 656.)

Not necessary for witnesses to be engaged in real estate business. (Robinson vs St. Joseph, 97 Mo. App. 503, 1. c. 509.)

Arbitrary rule limiting number of witnesses to a side held unreasonable. (Railroad vs Aubuchon, 199 Mo. 352.)

Jury should be guided by the evidence and their own judgment. (Kansas City vs Baird, 98 Mo. 215; Kansas City vs Butterfield, 89 Mo. 646; Kansas City vs Hill, 80 Mo. 523; Kansas City vs Street, 36 Mo. App. 666; Kerwin vs Friedman, 127 Mo. App. 519.)

Instruction that jury not bound by expert testimony, if deemed unreasonable, upheld. (St. Louis vs Ranken,

95 Mo. 189; Restetsky vs Railroad, 106 Mo. App. 382.)

In absence of error in instruction and of fraud or misconduct on part of freeholder's jury their verdict is conclusive of two facts; whether real estate in the benefit district had been specially benefited and the extent of that benefit. (Kansas City vs Bacon, 147 Mo. 259.)

The court may cut down or modify, as to some or all, the assessment of benefits; but not as to the damages; and the action of the court with respect to the assessments of benefits in ordering a new appraisal or not is largely discretionary, and the appellate courts will only set same aside in case of abuse. (St. Louis vs Buss, 159 Mo. 9; St. Louis vs Lawton, 189 Mo. 474; See Sec. 4.)

If juror die pending proceeding must be trial de novo. (Anderson vs St. Louis, 47 Mo. 479.)

Sec. 4. Verdict Reported to Common Council—Confirmation—Time—Sums Assessed Against City—Appropriation For—Assessed Against Private Property, a Lien—Time of Payment—Not Paid in Time, to Bear Interest—Collected as Any Other Special Tax—Or by Tax Bill—Procedure.—The Clerk of the Municipal Court shall, after the rendition of the verdict of the jury, report the same to the Common Council; and if the same be not confirmed by the Common Council within sixty days from the making of such report, the proceedings and verdict shall be void. If the verdict and proceedings be confirmed by ordinance within sixty days from the report of the Clerk of the Municipal Court, an appropriation shall be made to pay such sum as has been assessed against the city and the city shall have and hold the property sought to be taken for the purpose specified in the ordinance providing for the improvement, and the City Clerk shall give notice in writing of the fact of such confirmation to the Clerk of the Municipal Court; and the several amounts assessed by the jury against private property shall be a lien on the several lots and parcels of private property charged, from the date of the enactment of the ordinance providing for the improvement until paid; and if not paid within sixty days after the confirmation of the verdict, shall bear interest at the rate of seven per cent per annum, from

the confirmation thereof, except as hereinafter provided, and shall be collected by the city as by ordinance provided, by suit or otherwise, as any other special taxes, or by special execution, as follows, namely: A special tax bill against any lot or parcel of property assessed may be issued by the Clerk of the Municipal Court, under his hand, and his signature thereto shall be attested by the City Clerk under the seal of the City, which tax bill shall contain a description of such lot or parcel of property, and the amount assessed against the same as fixed by the verdict, and state that the assessment has been made to pay compensation for private property taken or damaged, or both, as the case may be, for the purpose specified in the ordinance providing for the improvement, giving the title of and date when the ordinance took effect, and that such assessment has been confirmed by ordinance, giving also its title and date when the ordinance took effect, and that such assessment shall bear interest as herein provided. Each tax bill, so issued, shall be filed in the office of the Clerk of the Circuit Court of Jackson County, at Kansas City, and by such Clerk recorded and indexed as a judgment in favor of the city, against the property described in the tax bill. At any time after the filing and recording of any such tax bill, as aforesaid, a special execution may be issued thereon out of the said Circuit Court in vacation or term time, as on a judgment of the Court in favor of the city, which execution shall recite the tax bill or the record thereof and state when the tax bill was filed and be directed to the Sheriff of Jackson County, and command him, in case the assessment, interest and costs be not paid to him, to sell the property therein described, or so much thereof as may be necessary to pay such assessment, interest and costs. The proceedings under such special execution shall, as far as practicable, conform to the proceedings on special executions on ordinary judgments foreclosing liens on land.

Sale and Deed to Vest Title.—Any sale, including the making of a deed by the sheriff to the purchaser, made as aforesaid, shall vest in the purchaser, all the right, title and interest and estate in the land of the parties owning and interested in the same, who shall not have paid their share of the assessment, and all parties claiming through or under them, or any of them, by operation of law or otherwise, subsequent to the taking effect of such ordinance shall be bound thereby.

Tax Bill Subject to Order of Court—Title Not Acquired Under Proceedings, Bill Set Aside—Proceedings in Case of Defect or Omission—Assessment Invalid in Part—Executions—Owner of Divided or Undivided Interest, May Pay Separately.—Tax bills filed and recorded as aforesaid shall be subject to the order of the Court, and may be set aside or the amount of assessment reduced on motion of any party interested in the property assessed, the city having reasonable notice of the filing of such motion and the object thereof. If no title can be acquired under the proceedings to any of the property sought to be taken, the court shall set aside any bill and assessment on motion. If by reason of any defect or omission in the proceedings the city cannot acquire title or right to any particular parcel of property, or to any interest in any parcel of property sought to be taken, the court shall, on the fact being made to appear, reduce the assessment by deducting therefrom so much thereof as was assessed on account of the property or interest in the property sought to be taken, but not acquired, to be determined as far as practicable from the verdict of the jury making the assessment, and award execution for the residue. No assessment shall be affected or interfered with for the reason that any other assessment or assessments made in the same proceedings may be invalid in whole or in part. Executions and proceedings thereon shall be under the control of the court or judge, as in ordinary civil cases. The owner of any divided or undivided interest in any lot or parcel of the property assessed, whether acquired prior or subsequent to the date of the taking effect of the ordinance, may pay his share separately.

Divided Interest, Benefits, How Divided—Procedure—Death of Owner Pending Proceedings—Modes of Collecting Assessments—Money Collected, How Used.—In the case of divided interest the benefits shall be divided in proportion to the area of the lot or tract assessed. No sale on execution on any tax bill shall be affected or invalidated because there may have been ground to set aside or reduce the tax bill. In case of the death of any property owner or claimant pending any proceedings under this Article, it shall not be necessary to bring in his representative, or to revive against such representative by any further notice, though it may be done by the city if deemed advisable. The city may resort to any or all of the modes of collecting such assessments at the same time, but shall have only one satisfaction. Money collected on such assessments shall be used only to pay such

compensation and whatever interest shall be collected, and no more, shall be apportioned and paid equitably to the owners of the property taken

If verdict be not confirmed by council all proceedings, as well as the ordinance, are void. (*Carter vs Foster*, 145 Mo. 383, l. c. 388.)

Error in description in verdict, cured by description in ordinance. (*Kansas City vs Smart*, 128 Mo. 272.)

Assessment is a lien from date of ordinance. (*Barnhart vs Hughes*, 46 Mo. App., 318; *Everett vs Marston*, 186 Mo. 587, l. c. 601.)

Interest. (*Plum vs Kansas City*, 101 Mo. 525; *Hilton vs St. Louis*, 99 Mo. 199; *Martin Ex'r vs St. Louis*, 139 Mo. 246; *Brunn vs Kansas City*, 216 Mo. 108; *Shoemaker vs U. S.* 147 U. S. 282.)

See note to Secs. 6-7.

Does not stop interest on mortgages. (*Kansas City vs Trust Co.*, 110 Mo App. 647.)

Where owner recovers interest on award for land taken he must account for rents and profits for land taken. (*Plum vs City of Kansas*, 101 Mo., 525.)

Held under St. Louis charter that commissioners act as assessors in determining amount of special tax against each tract. Held that such assessment is not a judgment which can of itself be enforced against property or upon which scire facias can issue. (*St. Louis vs Brinckwirth*, 204 Mo. 280, overruling *Eyssell vs St. Louis*, 168 Mo. 607; but see *Brunn vs Kansas City*, 216 Mo. 108.)

Whether property assessed with

benefits was in fact benefited, and the extent of such benefits, are not triable in a suit to enforce tax bills. (*Michael vs St. Louis*, 112 Mo. 610; *St. Louis vs Annex Realty Co.*, 175 Mo. 63.)

Whether city had already acquired property sought to be condemned could be tried in condemnation proceeding only, and not in suit to enforce tax bills or enjoin their collection. (*Buddecke vs Ziegenhela*, 122 Mo. 239.)

Modification of Verdict.—The court may modify the report under this section by cutting down the benefit assessed and adding the amount to that assessed against the city, and this is not a violation of the landowner's right to have damages assessed by a jury or commission of freeholders. (*St. Louis vs Lawton*, 189 Mo. 474.)

Modification of verdict. (*St. Louis vs Abeln*, 170 Mo. 318; *St. Louis vs Buss*, 159 Mo. 9; *St. Louis vs Lawton*, 189 Mo. 474; *St. Louis vs Weber*, 140 Mo. 515; *Railroad vs Pfau*, 212 Mo. 398.)

On exception the Commissioners are competent witnesses. (*St. Louis vs Abeln*, 170 Mo. 318.)

The owners against whom benefits are assessed may except to the report on the ground that the ordinance upon which the proceeding is founded is void. (*St. Louis vs Cruikshank*, 16 Mo. App. 495.)

Sec. 5. Incorporated Company—May File Application for Common Law Jury, When—Failure to File, Waiver of Right—Application Filed, Cause Transferred to Circuit Court—Procedure—Two or More Incorporated Companies Interested—Court May Order All Tried Before One Jury—Other Proceedings Continued Until Verdict of Jury—Judgment—Appeal.—If any incorporated company which may be interested in the whole or any part of the land to be taken or damaged by the said proceedings, be entitled under the laws of the land to trial of its claim for compensation therefor by common law jury of twelve men, it may at any time prior to the day fixed as herein

provided for impanelling a jury, file in the office of the Clerk of the Municipal Court, a petition in which it shall state the description of the property owned or claimed by it so to be taken or damaged and the amount and nature of its claim therefor, and may further state that it demands a trial before a common law jury of twelve men of its claim for compensation therefor; and if any such incorporated company shall not so file such petition before such date, it shall be deemed and taken to have waived its right to trial by a jury as aforesaid of such issue. And if any incorporated company, which may under the law of the land be entitled to a trial by jury as aforesaid, shall file such a petition, then the Municipal Court shall make an order transferring said cause to the Circuit Court for further proceedings therein and the Clerk of the Municipal Court shall within thirty days after such order certify and file with the Clerk of said court a transcript of the proceedings and all papers filed therein, or a copy thereof, and thereupon said court shall become possessed of said cause and the Circuit Court shall cause such common law jury to be impaneled at a time to be fixed by it and the issue to be tried by such jury shall be the actual value of the land of such claimant taken, if any, and the amount of damage to the land of such claimant not taken, by the public use thereof and by the use of the land taken for the purpose for which it is taken, including all the city may, from time to time, do or cause to be done in, with or upon the private property so taken or damaged. If two or more such incorporated companies interested in the land to be taken or damaged as aforesaid be entitled to trial by a common law jury as aforesaid, and shall make demand therefor as aforesaid, the court may, in its discretion, as may appear expedient, order that all such claims shall be tried at the same time before one jury; and said cause or further proceedings in the same shall be continued from time to time by the court until such issue or issues shall have been determined by the verdict of said jury; *Provided*, That any party to such issue which may feel aggrieved by the verdict of said jury may, within four days after the rendition of the same, file its motion for a new trial and in arrest of judgment, and said motion or motions shall be heard without delay, and after hearing the same, the court may overrule the same or may order a new trial of such issue or issues on good cause shown; but no appeal from the judgment of the court overruling such motion shall be had therein until the final judgment of confirmation of the entire proceedings by the said court as hereinafter provided.

After Verdict of Common Law Jury—Other Proceedings—Jury Empaneled—Shall Accept Assessment of Damages as by Said Common Law Jury—So Recite in Verdict.—After the rendition of the verdict of such common law jury of twelve men, and after the hearing of the exceptions thereto on the motions for a new trial or in arrest of judgment, if any there be, the court shall, on any day thereafter to which said cause may have been continued as aforesaid, impanel a jury of six freeholders and the cause shall proceed before such jury of six freeholders impaneled to try the same as set forth in section six, in this Article; *Provided*. That in case any claim for compensation shall have been tried and ascertained by a common law jury as herein provided, any jury of freeholders in said proceedings shall accept and adopt the valuation or assessment of damages for any land taken or damaged as assessed by said common law jury, and shall so recite the same in and as a part of any verdict thereafter rendered by any such jury of freeholders.

Where corporation demands jury right under constitution cannot be denied. (*St. Louis vs Roe*, 184 Mo. 324; *S. M. & A. Ry. Co. vs Woodard*, 193 Mo. 656.)

A municipality is not an "incorporated company" within the meaning of

Section 4, Article XII, Constitution; definition of municipal corporation. Incorporated company waives common law jury by not demanding it. (*Kansas City vs Vineyard*, 128 Mo. 75; *Kansas City vs Smart*, 128 Mo. 272.)

Sec 6. Appeal to Circuit Court.—In case the city, or any person affected by the proceedings, either as the owner thereof or interested in any of the property taken or damaged, or as the owner of, or interested in any of the property assessed, shall feel aggrieved by the verdict of the jury, such party so aggrieved may, within twenty days from the time the verdict of the jury is confirmed, appeal to the Circuit Court of Jackson County, Missouri, at Kansas City. If an appeal is taken, the same shall be perfected by the filing with the Clerk of the Municipal Court within the time aforesaid, by some party in interest as aforesaid, such an affidavit as is required by law in appealing from the judgment of a Justice of the Peace, and in which affidavit the party appealing, or his agent, shall state what interest the party appealing has in the proceedings. The party appealing may, however, discontinue such appeal at any time before the transcript has been filed in the office of the Clerk of the said court, by filing a statement in writing to that effect with the Clerk of said Municipal Court.

How Perfected—Duty of Clerk on Appeal—Transcript—Tried De Novo—New Parties—When Triable—Verdict to Conform to What—Assessments, When Paid—Lien—Not Paid—Execution, Shall Show What—Sale and Deed—Force and Effect of—City May Purchase.—If an appeal is so taken it shall be the duty of the Clerk of the Municipal Court within sixty days from the taking of such an appeal, unless the appeal be so discontinued to certify and file with the Clerk of the Circuit Court of Jackson County, at Kansas City, a transcript of the proceedings and all papers filed and used in the trial, or a copy thereof, except the verdict of the jury, but the certificate to said transcript shall state that a verdict was rendered in the proceeding from which the appeal is taken; and thereupon the said Circuit Court shall become possessed of the cause, and said cause, unless dismissed, shall be tried *de novo* in said Circuit Court and have precedence over all other causes for trial; and if necessary to a final determination of any question arising in said cause, the Circuit Court shall have the power to make and bring in other parties to such proceedings on service of notice upon them to be made in the manner required by section two of this Article; and if such appeal is taken preceding any term of said court it shall stand for trial at such term; and if such appeal is taken during the sitting of said court, the cause shall be immediately docketed upon the filing of the transcript and stand for trial, but for good cause, in the discretion of the court, any such proceeding may be postponed or continued, and such proceedings shall not be affected by any postponement or continuance, or want thereof. Such trials on appeal are to be conducted in all respects and subject to the same rules and the same laws as other trials had in the Circuit Court as fully as may be and the same record thereof made and kept. The verdict of the jury or finding of the court, sitting as a jury, shall conform in all respects to the requirements of section three of this Article, and shall have the same force and effect as therein specified, and provided for verdicts of the jury in the Municipal Court, and shall be binding and conclusive upon all persons and parties concerned or interested in the proceedings, and no confirmation thereof by the Common Council shall be required. The assessments against private property shall be paid within the same time, and until paid bear the same rate of interest as provided in section four of this Article, and the amounts assessed against private property by the finding or verdict shall stand as a judgment, and

be a lien on the several parcels of property charged, from the date the ordinance for the improvement takes effect, until paid, and if such assessments are not paid within sixty days from the judgment of the court on the finding or verdict, special execution or executions, as required, may issue against the several lots or parcels of property against which assessments for benefits are made, and the execution shall be in favor of Kansas City, Missouri, and show the description of the lot or parcel of ground and the amount assessed against the same as shown by the verdict, and show the rate of interest upon assessments, with the date when the same began to accrue, and state that the assessment has been made to pay compensation for private property taken or damaged for the purpose specified in the ordinance providing for the improvement, giving the title and date of approval of the ordinance; which execution shall conform to the proceedings on special executions provided by section four of this Article, and the said proceedings, sale and deed shall have the same force and effect as stated in said section; *Provided, however,* That the city shall have power to bid in such property at such sales and have and hold the same as any other purchaser.

On Appeal, Jury to Consist of Six Freeholders—To Examine Property—Verdict—Judgment Shall be What—How Collected.—

On appeal under this section the jury shall consist of six men who shall be disinterested freeholders of the city and be chosen by the judge of the court. They shall, before making their verdict, examine personally the property taken or damaged and that to be assessed with benefits, and upon the finding or verdict, judgment shall be entered thereon that the city have and hold the property sought to be taken for the purpose specified in the ordinance providing for the improvement, and pay therefore the amount assessed against the city, and full compensation assessed therefore, and that the several lots and parcels of private property assessed to pay compensation by the verdict or finding stand charged, and be bound, respectively, for the payment of assessments, with interest as provided in this Article, and that such judgment be enforced by special execution or executions to collect assessments as aforesaid, without special tax bills, and the court may, by execution or otherwise, put the city in possession of the property taken, or any part thereof, the full compensation therefor having been paid to the owner or party damaged, or into court for him.

Art. 6. CONDEMNING AND DAMAGING PRIVATE PROPERTY. Secs. 6-7.

Costs, How Taxed—The court shall tax and charge the costs in appeals according to equity.

Sufficiency of affidavit for appeal and who may appeal. (Kansas City vs Railroad, 189 Mo. 245.)

Recital of record that affidavit for appeal was filed on given day and clerk's endorsement of same date must yield to affidavit itself where jurat shows it was sworn to at a subsequent date. (State ex rel. vs Gates, 113 Mo. App. 649.)

Transcript must show verdict and appeal from Mayor's court to give Circuit Court jurisdiction. (Kansas City vs Ford, 99 Mo. 91.)

When diminution of transcript is shown, Circuit Court should order complete transcript sent up. (Kansas City vs Morse, 105 Mo. 510.)

Power of Circuit Court to set aside

benefit assessments made by jury and to reduce and increase assessments against property owners in city. (St. Louis vs Buss, 159 Mo. 9; St. Louis vs Lawton, 189 Mo. 474; St. Louis vs Lanigan, 97 Mo. 175; State ex rel. vs Dearing, 173 Mo. 492.)

Judgment conclusive against collateral attack where court has jurisdiction of parties and subject matter. (Burke vs City of Kansas, 118 Mo. 309; Williams vs Monroe, 125 Mo. 574; Leonard vs Sparks, 117 Mo. 103, reversing s. c. 63 Mo. App. 585.)

Presumption in favor of courts jurisdiction, applies to condemnation proceedings. (Buddecke vs Ziegenheim, 122 Mo. 239.)

Sec. 7. Appeal—Circuit Court—Dismissal—Interest On Judgment From Date of Dismissal—Appeal From Circuit Court—Bond For Costs—Interest On Judgment.—When any proceeding is appealed to the Circuit Court and none of the appellants appear at the time of said hearing of said proceeding, the court shall dismiss the appeal; and any party appealing may, at any time before the jury has rendered a verdict, dismiss his appeal to the Circuit Court, and should the party appealing not appear, and his appeal be dismissed, or when all parties who may have appealed shall have dismissed their appeals, the verdict rendered on the hearing before the Municipal Court shall remain in full force and be binding on all parties interested in said proceedings, and be enforced as if no appeal had been taken. In case of such dismissal of the appeal or appeals to the Circuit Court, the several amounts assessed against the property deemed benefited shall bear interest as hereinbefore provided only from date of the dismissal of such appeal or appeals. Any party or parties may appeal from the judgment of the Circuit Court in such manner as appeals are taken in other civil causes, but the only bond required of the party appealing shall be one, conditioned that should the judgment of the Circuit Court be affirmed by the Appellate Court, or should such appeal be dismissed, he will pay all costs of such appeal. When an appeal shall be taken from the Circuit Court, the amounts assessed upon the property deemed benefited shall bear interest only from the affirmance of the judg-

be a lien on the several parcels of property charged, from the date the ordinance for the improvement takes effect, until paid, and if such assessments are not paid within sixty days from the judgment of the court on the finding or verdict, special execution or executions, as required, may issue against the several lots or parcels of property against which assessments for benefits are made, and the execution shall be in favor of Kansas City, Missouri, and show the description of the lot or parcel of ground and the amount assessed against the same as shown by the verdict, and show the rate of interest upon assessments, with the date when the same began to accrue, and state that the assessment has been made to pay compensation for private property taken or damaged for the purpose specified in the ordinance providing for the improvement, giving the title and date of approval of the ordinance; which execution shall conform to the proceedings on special executions provided by section four of this Article, and the said proceedings, sale and deed shall have the same force and effect as stated in said section; *Provided, however,* That the city shall have power to bid in such property at such sales and have and hold the same as any other purchaser.

On Appeal, Jury to Consist of Six Freeholders—To Examine Property—Verdict—Judgment Shall be What—How Collected.

On appeal under this section the jury shall consist of six men who shall be disinterested freeholders of the city and be chosen the judge of the court. They shall, before making their verdict, examine personally the property taken or damaged and that to be assessed with benefits, and upon the finding or verdict, judgment shall be entered thereon that the city have and hold the property sought to be taken for the purpose specified in the ordinance providing for the improvement, and pay therefore the amount assessed against the city, and full compensation assessed therefore, and the several lots and parcels of private property assessed to pay compensation by the verdict or finding stand charged, and be sold, respectively, for the payment of assessments, with interest as provided in this Article, and that such judgment be enforced by execution or executions to collect assessments as aforesaid, special tax bills, and the court may, by execution or otherwise, place the city in possession of the property taken, or any part thereof, the full compensation therefor having been paid to the party damaged, or into court for him.

Cross How Taxed—The court shall tax and charge the costs according to equity.

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1. The first part of the report is a summary of the work done during the year. It is a very good summary and gives a clear picture of the work done.

~~3022~~ ~~State~~ ~~Cover~~ ~~Internal~~ ~~Internal~~ ~~Cover~~
~~State of Missouri~~ ~~Annual Report~~ ~~Circuit Court~~

~~CONFIDENTIAL~~

[illegible]

1. *Chlorophyll a* (Chl *a*) is the primary photosynthetic pigment in most algae and higher plants. It is a green pigment that absorbs light energy in the blue and red regions of the visible spectrum.



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ment in the Appellate Court, or from the dismissal of the appeal or appeals; *Provided, however*, That if the party or parties appealing shall be the owner or owners of the property assessed with benefits, then such party or parties appealing shall, unless the judgment be reversed in the Appellate Court, pay interest at the rate of eight per cent per annum on the amount or amounts of the judgment in the Circuit Court charged from date judgment is rendered until paid.

Sufficiency of affidavit for appeal and who may appeal. (Kansas City vs Railroad, 189 Mo. 245.)

Recital of record that affidavit for appeal was filed on given day and clerk's endorsement of same date must yield to affidavit itself where jurat shows it was sworn to at subsequent date. (State ex rel. vs Gates, 113 Mo. App. 649.)

Supreme Court has appellate jurisdiction over condemnation case involving title to real estate whatever may be amount of damages awarded. (Kansas City vs Railroad, 187 Mo. 146, cases cited p. 151.)

Unless motion for new trial be filed within four days and exceptions be preserved by bill of exceptions nothing but record proper can be reviewed on appeal. (Kansas City vs Mastin, 169 Mo. 80, l. c. 87, 88; Kansas City vs Bacon, 147 Mo. 259, l. c. 275; St. Louis vs Lawton, 189 Mo. 474.)

Where one party interested in re-

sult of proceedings appeals all other parties, though not appealing, are equally bound by result of appeal as though they had joined therein. (Kansas City vs Mulkey, 176 Mo. 229, l. c. 247.)

After reversal by Supreme Court on appeal by part of defendants, the retrial must be as to all defendants, and not merely as to those who appealed. (State ex rel vs Gill, 84 Mo. 248.)

Appellant cannot avail himself of defects or errors affecting rights of parties not appealing. (Kansas City vs Smart, 128 Mo. 272; St. Louis vs Lanigan, 97 Mo. 175; Kansas City vs Block, 175 Mo. 433.)

Supreme Court will not disturb the findings of fact by the Circuit Court in affirming the report. (St. Louis vs Wetzel, 110 Mo. 260, 264, 265; St. Louis vs Lanigan, 97 Mo. 175; Williams vs Monroe, 125 Mo. 574.)

Sec. 8. Damages—Appropriation For—Benefits Collected By Treasurer—Reported to Comptroller—Damages Paid to Clerk, City May Enter In Possession—Notwithstanding Appeal, Etc.—When recommended by the Board of Public Works, the city may, by ordinance, appropriate out of any funds in the treasury an amount sufficient to pay the whole, or any part, of the damage allowed in any proceedings under this Article, or under Article VII of this Charter, and the benefits or assessments charged against private property in such proceedings shall be collected by the Treasurer and reported to the Comptroller, and shall be credited to the fund of the city from which such payment was made, unless otherwise provided by ordinance. In any proceeding contemplated by this Article where the city shall pay or cause to be paid to the clerk of the court in which said proceeding is pending, the amount of the damages awarded for the use of the persons entitled to the same.

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the city shall have the right to enter upon and take possession of the property so taken or condemned notwithstanding any exceptions to such award or appeals therefrom and any subsequent proceedings in said case shall only affect the compensation to be allowed.

Cities of over 100,000 are authorized by statute to pay into court the money awarded as damages and take possession of the property and pro-

ceed with the improvement contemplated, by Laws, 1907, p. 118. (R. S. 1909, Sec. 9762.)

Sec. 9. Benefit Assessments—City May Sell—Proceeds, How Used—Failure to Collect Assessments, City Not Liable.—

The city may sell, assign or transfer, without recourse, in any manner provided by ordinance, the whole or any part of the unpaid assessments for benefits assessed against private property in pursuance of this Article, or of Article VII, of this Charter, as shown by the verdict in such proceedings, and the proceeds thereof shall be used for the payment of damages allowed in such proceedings, and the benefits and interest thereon shall be collected by the city and paid to the purchaser or his assigns thereof, but in no event shall the city be liable on account of failure to collect any assessment; and all the rights of the city shall by such assignment pass to and vest in such purchaser.

Sec. 10. Final Determination—Treasurer and Comptroller to Make Entry in Record—To Show What—Treasurer to Collect Assessments—May Offset, on Request, Against Benefits—Report to Comptroller—Damages Paid by Warrant, When—Receipt.—

Upon the final determination of any proceedings under this Article, the City Treasurer and Comptroller shall each enter in a suitable record a reference to the proceeding and a description of the lots or parcels of land, taken or damaged, giving the names of the owners or claimants thereof respectively, the amounts of damages and benefits as shown by the verdict, and the date of the confirmation of the verdict, and the Treasurer shall collect said assessments, and, when requested by any owner of property taken or damaged, may make offsets in whole or in part, against any unpaid benefits charged against the property of such owner in the verdict, and make proper entry opposite each tract of the amount of principal and interest collected or offset, and the date thereof, and report the same to the Comptroller. When the amount of such damages shall be in the city treasury, the Comptroller shall, by war-

rant, and without the necessity of any action or appropriation by the Common Council, pay to the person or persons entitled thereto, or into court for their use, the amount of damages as set out in the verdict and the proportion of interest thereon, if any, and take a receipt therefor.

City Not Liable for Interest—Satisfaction of Lien.—The city, in no event, shall be liable for any interest on account of any proceedings under this Article. The payment to the City Treasurer, and the entry thereof on his records opposite the description of such tract or parcel of land, and the date of such payment, and by whom paid, shall be a sufficient satisfaction of any lien, assessment or judgment against such tract, or parcel, created under this Article.

Sec. 11. Property Taken Or Damaged—Possession By City, When—Title in Controversy—Pending Which, Money Paid Into Court.—The city shall not be entitled to the possession of any lot or parcel of property taken or damaged until full payment of the compensation therefor be made or paid into court as herein provided. If the title to any property taken or damaged be in controversy, or there be any dispute as to what party or parties are entitled to such compensation, nothing shall be paid therefor to any party until the right to the compensation be determined by the Circuit Court of Jackson County, Missouri, at Kansas City, in an appropriate suit between the city and the parties claiming the same, in which none of the costs of the litigation shall be borne by the city, unless the city be one of the claimants, and which suit may be brought by the city or any party making claim to said compensation; and during such controversy or dispute the money shall remain in the city treasury, and pending such litigation, the city may, after having in the city treasury the compensation to be paid for the property, with leave of the court in which the suit is pending, or judge of such court in vacation, by order made in the action, take possession of the property, bringing the money into court, if required, and the court or judge may enforce such order by execution or otherwise. If any party entitled to such compensation be absent, or unable or unwilling to receive the same, the city shall have the right to apply to said court, or the judge thereof in vacation, for an order directing said compensation to be paid to the clerk of said court for the use of said party, which order shall be entered of record by said clerk as the proceedings of said court, and when the amount has thus been paid into court, the rights of the city in said property shall be the same

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in all respects as if such compensation had been paid directly to the party entitled thereto.

When land is taken by condemnation title passes by operation of law. (Tamm vs Kellogg, 49 Mo. 118.)

Title to land condemned does not pass until payment made. (Prevolt vs Railroad, 57 Mo. 256; Green vs Railroad, 82 Mo. 653; Railroad vs Evans, 85 Mo. 307; State ex rel. Rogers vs Hug, 44 Mo. 116; State ex rel. vs Lubke, 15 Mo. App. 152; Kansas City vs Ward, 134 Mo. 172. But, see Plum vs Kansas City, 101 Mo. 525; Buchanan vs Kansas City, 208 Mo. 674.)

Cities of over 100,000 are authorized by statute to pay into court the money awarded as damages and take possession of the property and proceed with the improvement contemplated, by R. S. 1909, Sec. 9762, Laws, 1907, p. 118.

Where title to property is in controversy city may file bill of interpleader, court may order money to be paid into court. (Ross vs Gates, 183 Mo. 338; Holmes vs Kansas City, 209 Mo. 513; Hilton vs St. Louis, 99 Mo. 199; Martin Executor vs St. Louis, 139 Mo. 246.)

If the ownership of the property is in dispute and the city wishes to avoid payment of interest the money should be paid into court. Otherwise the city is required to pay lawful interest for the time subsequent to the ascertainment of the value of the land taken; interest is allowable as in case of any other judgment, and not from the time the city takes possession; (Martin vs St. Louis, 139 Mo. 246, 261, with discussion by the court.)

Payment into court and interest—appeal after inter-plea by different claimant. (St. Louis vs Nelson, 108 Mo. App. 210.)

When money is paid into court it represents and stands in place of condemned land and claimants have same right to money that they had in land. (Ross vs Gates, 183 Mo. 338, s. c. 117 Mo. App. 237; Buchanan vs Kansas City, 208 Mo. 674.)

Prior mortgagee is entitled to priority of payment including interest after judgment of condemnation until payment of amount awarded for damages. (Kansas City vs Trust Co., 110 Mo. App. 647.)

Sec. 12. Docket—Kept By Clerk of Court—Show Property Taken or Damaged.—The city shall provide suitable books, of such form as may be prescribed by ordinance, to be kept by the Clerk of the Municipal Court or the Clerk of the Circuit Court, or both, as may be necessary, showing what pieces of property have been taken or damaged by such proposed improvement, and the amount assessed against each piece of property in the district deemed benefited to make compensation therefor, with indexes to such books, so that the exact condition of each piece of property affected by said proceedings can at any time be definitely ascertained, and such index shall be the only docket of such cases required to be kept by the Clerk of said court.

Sec. 13. Record—Clerk of Court to Make—Show All Proceedings—Court to Examine and Sign—Record or Certified Copy—Evidence of What—Original Papers—Costs—Assessment Uncollected, City May Pay.—As soon as practicable after confirmation of any verdict by the Common Council, the Clerk of the Municipal Court shall make a full record in a book provided for

the purpose of such proceedings, which record shall contain correct copies of all ordinances constituting part of the proceedings, notices to the parties to the proceedings and returns thereon, all notices published and the proofs thereof, all orders by the Municipal Court, the names of the jurors and when impaneled, and the verdict of the jury and such other documents and matters as the ordinances of the city may require. The Judge of the Municipal Court shall examine such final record of such proceedings, and, if it be correct, sign the same; and thereafter such record, or copy thereof, certified by the Clerk of the Municipal Court, shall be competent evidence in all courts of this State of the facts stated therein. The original papers shall be carefully preserved by the Clerk of the Municipal Court. The city shall pay all costs of proceedings to take or damage private property except costs of proceedings to collect assessments, which shall be taxed and paid as costs in ordinary cases, and except the costs upon appeal as hereinbefore provided. If the city fails to collect any assessment in whole or in part, it may pay the amount not so collected out of the city treasury.

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| Attorney's fees and expert witness fees cannot be taxed as costs. (St. Louis vs McIntz, 107 Mo. 611; Brewing Association vs St. Louis, 168 Mo. | 37; Berry vs Rood, 209 Mo. 662, l. c. 678. Lester Real Estate Co. vs St. Louis, 170 Mo. 31.) |
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Sec. 14. Private Property, Condemnation of—For Streets—Grading—In Same or Separate Ordinance—Notice—Jury.—In all cases where private property is taken or damaged for any of the purposes set forth in this Article, the Common Council is hereby authorized by the same ordinance, or by separate ordinances, both to condemn private property under the provisions of section two of this Article for the opening or establishing of any thoroughfare, and also by the same ordinance, or by separate ordinances, to establish the grade or change the grade of the same street or thoroughfare at such points as it may deem advisable and to provide for the grading of the same to such established grade. In such case the notice required to be given, as aforesaid, shall state that benefits and damages, if any, arising from the condemnation and grading of the street or thoroughfare to the established grade shall be assessed by the jury in said condemnation proceedings.

Failing to File Claim, Waiver of Damage—Claim Filed, When—Damages, How Found—Benefits.—In case the owner of any tract of land shall not file with the said Clerk a

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claim for damages on account of the proposed grading of the street or thoroughfare, he shall be deemed to have waived the same. Such claim shall be filed on or prior to the day when the jury is impaneled to assess the damages. The jury shall find the amount of damages, if any, to any tract of private property for which damages are claimed on account of the proposed grading, as provided in Article VII of this Charter, and in assessing the benefits, shall consider benefits caused by the opening of the street or thoroughfare as provided in this Article, and the benefits arising from the grading of the street to the proposed grade, as provided in Article VII of this Charter.

Sec. 15. Ordinance For Proposed Improvement—Council May Repeal, When.—The Common Council shall have the power, in any proceeding provided for in this Article, at any time before any of the parties assessed with the benefits shall have paid the amount so assessed to repeal the ordinance ordering the proposed improvement, if such repeal be deemed for the best interests of the city, and in such event the judgment for compensation and benefits shall be void.

Right of city to abandon condemnation proceeding. (*Kansas City vs Railroad*, 189 Mo. 245; *Brunn vs Kansas City*, 216 Mo. 108.)

When liable for damages caused thereby. (*Simpson vs Kansas City*, 111 Mo. 237; *State ex rel. Rogers vs Hug*, 44 Mo. 116; *Rogers vs St. Charles*, 3 Mo. App. 41; *St. Joseph vs Hamilton*, 43 Mo. 282; *Whyte vs Kansas City*, 22 Mo. App. 409; *Brewing Assn. vs St. Louis*, 168 Mo. 37, 1. c. 46; *Lester Real Estate Co. vs St. Louis*, 170 Mo. 31.)

Where there is a valid subsisting

and final judgment in condemnation proceedings, unappealed from, not vacated or set aside, such judgment may be interposed to bar prosecution of new proceeding for condemnation of same property for same purpose by same corporation. (*Kansas City vs Mulkey*, 176 Mo. 229, 1. c. 252.)

In a second proceeding, whether barred or not by former proceeding, verdict or judgment of former proceeding cannot be made basis for verdict or judgment in later proceeding. (*Kansas City vs Mulkey*, 176 Mo. 229, 1. c. 253.)

Sec. 16. General Public Improvements—Common Council May Order—In One or By Separate Ordinances—What Ordinance Shall Provide—Compensation For Private Property, Paid Out of General Fund or by Assessment—Damages, How Ascertained—Procedure.—When the grading or regrading of any public highway, or the grading or regrading of any highway and highway or highways intersecting therewith, or the construction of tunnels, subways or viaducts in, under or upon said public highway or highways, or the taking of

private property by condemnation for widening, opening or extending any such public highway or highways, or any or all of said improvements, shall be deemed by the Common Council to be part or parts of one general public improvement, the Common Council shall have the power to provide for the same in one and the same ordinance or by separate ordinances. Said ordinance or ordinances may provide for establishing or re-establishing the grade of such public highway or intersecting highway or highways or part or parts thereof, and may provide for such grading or regrading by means of cuts, fills or viaducts, and may provide for building subways or tunnels, and may, in the same ordinance and as a part of the same general public improvement, provide also for the condemnation of private property taken or damaged by such proceeding. Such ordinance or ordinances shall in such case provide also for the payment of compensation for private property so taken or damaged either out of the general fund of the city or by special assessments upon a benefit district, or by both; the damages, if any, caused by such public improvement may be ascertained in one court proceeding or by separate court proceedings in the Circuit Court of Jackson County, Missouri, at Kansas City, as may be provided by ordinance, and all procedure for the ascertainment of damages, the service of notice, and the making of special assessments shall be conducted under such section or sections of this Article or of Article VII of this Charter, as the ordinance or ordinances shall provide. Such ordinance or ordinances shall provide the method by which the damages awarded in such proceeding or proceedings shall be paid, and if said damages are to be paid by special assessment upon a benefit district, said ordinance or ordinances shall fix the boundaries of said district.

Board of Public Works to Prepare Plans—To Show What—Filed With Clerk of Court.—When proceedings are conducted under the provisions of such ordinance or ordinances, the Board of Public Works shall cause plans to be prepared, which said plans shall be identified in the ordinance or ordinances, and shall show the location and description of the proposed public improvement as a whole, and such plans shall be filed with the Clerk of the Circuit Court with a certified copy of said ordinance or ordinances. Any special assessment against property deemed benefited shall be collected in the manner provided in this Article.

Ordinances as Evidence, When.—Whenever the grading or regrading of any public highway or intersecting highway, or the construction of tunnels, subways or viaducts in, under or upon such highway or highways, or the taking of any private property for the widening, opening or extending of such highway or highways or any or all of such improvements shall be a part of one general public improvement, and shall be provided for in separate ordinances, all of said ordinances or as many as may be necessary to show said proceeding in its entirety may be introduced in evidence, and may be considered by the jury or juries in assessing the damages and benefits, if any, to arise in any one of said proceedings.

Sec. 17. Condemnation of Land For Viaduct—Changing Grade of Highway—Ordinance Approved by Board of Public Works—Of Boulevards by Board of Park Commissioners—Plans to be Prepared—To Show What—Ordinance to Establish Grades, Etc.—Benefit District—Proceedings in Circuit Court—Notice and Publication—Jury—Damages—Benefits.—Whenever it is necessary to condemn any land for the purpose of constructing a viaduct thereon or to condemn an easement or right-of-way over any land for such purpose, or to widen a street, avenue, alley, boulevard, or other public highway, for the purpose of constructing a viaduct thereon, or to construct a viaduct upon a street, avenue, alley, boulevard, highway or other public property, or to change the grade of a highway for any purpose, and such construction or change may cause a damage to private property, the ordinance providing therefor, before its passage, shall be approved by the Board of Public Works, except that in case of boulevards under the Board of Park Commissioners, said ordinance shall be approved by the Board of Park Commissioners. The Board of Public Works, or Board of Park Commissioners, as the case may be, shall cause plans to be prepared, which said plans shall show the location, length, width and height of the proposed viaduct, manner of construction thereof, and the dimensions, character and grade of the approaches thereto. The Board of Public Works, or the Board of Park Commissioners, shall then recommend to the Common Council the passage of an ordinance providing for the construction of such viaduct, making a reference in said ordinance to said plans. Such ordinance shall establish the grade of said viaduct and of the approaches thereto. In case a part or whole of the dam-

ages are to be paid for by special assessments, the ordinance shall prescribe a benefit district within which private property is deemed to be benefited, and such private property within such district may be assessed with the benefits, and proceedings therefor shall be begun in the Circuit Court of Jackson County, Missouri, by filing with the Clerk of said court a certified copy of said ordinance, together with a certified copy of the plans of said viaduct; the court shall require service of notice and publication thereof to be given as provided in this Article where condemnation cases are begun before the Municipal Court. Subsequent proceedings in the Circuit Court shall be conducted in the same manner and with the same effect as in cases of appeals taken in condemnation cases begun in the Municipal Court, and in such cases a jury shall determine the damage and assess the benefits as provided by Section three of this Article, and Section seven of Article VII of this Charter, so far as applicable.

Condemnation for Subway, Tunnel or Cut—Same Proceedings.—Whenever it is deemed necessary by the city to condemn a right-of-way for a subway, tunnel or cut, or to condemn an easement for the construction of the same under private property, or to construct the same under any street, avenue, alley, highway or other public grounds, and private property may be damaged thereby, said proceedings may be originated and conducted in the same manner and with like effect as herein provided in regard to viaducts so far as the same may be applicable.

Provisions in a charter requiring the recommendation of a certain board of commissioners preliminary to an ordinance of condemnation are valid. (*Kansas City vs Mastin*, 169 Mo. 80, 93; *St. Louis vs Franks*, 78 Mo. 41;

St. Louis vs Gleason, 93 Mo. 33; *Fruin-Bambrick Construction Co. vs Geist*, 37 Mo. App. 509; *Bambrick vs Campbell*, 37 Mo. App. 460; *City of Sedalia vs Montgomery*, 109 Mo. App. 197.)

Sec. 18. Billboards, Etc., on Private Property—May Prohibit—Ordinance Prescribe What—Damages—Proceedings—Petition of Owners of Majority of Front Feet—Dismissal.—The Common Council may, by ordinance, prohibit the construction or maintenance of bill boards or advertising boards or structures for the posting, painting or printing of signs or advertisements on private property within any prescribed limits. Such ordinance shall prescribe the size, character and location of such advertising boards and structures so prohibited, and in case any private property shall be so damaged by such prohibition as to entitle the owners thereof to remuneration or damages under the Constitution of the State of

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Missouri, such prohibition and the proceeding to enforce the same shall be treated as a public improvement, and unless the consent of the owner or owners damaged by such prohibition be first obtained, the same procedure for the ascertainment and assessment of just compensation to be paid to the owner or owners of such private property and the manner of payment of such damages shall be adopted as is prescribed by Sections two, three and four of this Article relating to proceedings for condemning and damaging private property; *Provided, however,* That if, within four days after the rendition of the verdict in said proceedings, there shall be filed with the Clerk of the court in which said proceedings are pending a petition asking for the dismissal of said proceedings signed by the owners of a majority of the front feet of the property in the benefit district fixed by the ordinance instituting such proceedings, then the Common Council shall not have power to confirm said verdict and said proceedings shall be dismissed on behalf of the city and no judgment shall be rendered therein.

Regulation of bill boards. (Crawford vs Topeka, 51 Kans. 756.)

Sec. 19. Condemning and Damaging Private Property—Additional Methods—City Taking Possession.—In addition to the methods heretofore provided in this Article for the condemning and damaging of private property, whenever the city shall deem it necessary and by ordinance determine to take or damage any private property for public use of said city, it may adopt the same procedure for such taking and damaging as is prescribed in the general laws of the State for the appropriation and valuation of lands taken for telegraph, telephone, gravel and plank or railroad purposes, being Chapter 12, Article VII, of the Revised Statutes of Missouri, 1899. Upon paying to the Clerk of the Circuit Court the amount of damages awarded, the city shall have the right, notwithstanding the filing of exceptions to such award, or appeals therefrom, to enter upon and take possession of the property so taken and condemned, and to proceed with the public improvement, or in the case of damage only, to proceed with the public improvement, and any subsequent proceeding shall only affect the amount of compensation to be allowed.

Cities of over 100,000 are authorized by statute to pay into court the money awarded as damages and take possession of the property and proceed with the improvement contemplated by R. S. 1909, Sec. 9762, Laws, 1907, p. 118.

Effect of verdict in later proceeding. (Kansas City vs Mulkey, 176 Mo. 229, l. c. 252, 253.)

Sec. 20. Taking and Damaging Property in the State of Kansas.—The city may, whenever it is deemed necessary, and in the manner provided by ordinance, institute and prosecute, within the State of Kansas, when permitted by and in accordance with the laws of that State, proceedings for the taking and damaging of private property for any of the public uses specified in this Charter.

City has power that is given corporations by general law to take, hold and convey such real and personal estate as the purposes of the corporation shall require not exceeding the amount limited in its Charter whether the property be situated within or without the city limits. (Christy's Admr. vs St. Louis, 20 Mo. 143; Chambers vs St. Louis, 29 Mo. 543; Hafner vs St. Louis, 161 Mo. 34; Haeussler vs St. Louis, 205 Mo. 656; St. Louis vs Crow, 171 Mo. 272.)

Power to hold property outside of state. (Haeussler vs St. Louis, 205 Mo. 656.)

City has right to expend money on improvements outside of city. (Hagood vs City of La Grange, 33 Mo. 244; Elting vs Hickman, 172 Mo. 237, l. c. 259.)

Property outside of state. (Haeussler vs St. Louis, 205 Mo. 656.)

Sec. 21. Proceedings Under This Article in Circuit Court, When.—Whenever deemed advisable by the Common Council, and upon ordinance therefor, the proceedings provided for in this Article may be commenced in the first instance and maintained and determined in the Circuit Court of Jackson County, Missouri, at Kansas City, and such court shall have original, full and complete control and jurisdiction thereof, and of the parties thereto, and such proceedings may be commenced, maintained and determined, as near as may be, in similar manner, with similar procedure and like process and service thereof, as provided for in Sections two and three of this Article, and whenever in such event, the Mayor of the city shall file, or cause to be filed, in said court a duly certified copy of an ordinance of said city, with the statement by map or plat as provided in Sections two and three of this Article, for similar proceedings, the court shall become fully possessed of the proceedings with full power therein and have complete and sole control and jurisdiction thereof. In such case the court shall, upon application of the city, make the order provided for in Section two of this Article, and service and publication thereof shall be made as provided for in said section.

Sec. 22. Assessments—Installments—Common Council to Determine—Proceedings in Circuit Court—Interest.—Whenever the Common Council shall so determine, the assessments to pay for property taken or damaged shall be paid in such

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number of annual installments as may be determined by ordinance upon the recommendation of the Board of Public Works. In such case the proceedings shall be begun and prosecuted to judgment in the Circuit Court of Jackson County, Missouri at Kansas City. The assessments shall bear interest at the rate to be specified in the ordinance not exceeding seven per cent per annum. In such case the provisions of Sections twenty-two, twenty-three and twenty-four of Article XIII shall apply as to the payment and collection of the amounts and the penalties thereon and the disposition of the money so collected.

Condemnation Fund Certificates—Board of Public Works, Powers of.—The Common Council, upon recommendation of the Board of Public Works, may, by ordinance, provide that the City Treasurer shall issue certificates equal in amount to the unpaid assessments as provided in Section twenty-five of Article XIII of this Charter. Such certificates shall be known as condemnation fund certificates and all the provisions of Sections twenty-five, twenty-six and twenty-seven of Article XIII shall apply to the issue, sale and payment of such certificates so far as applicable, except that all the rights, powers and duties in said sections conferred upon the Board of Park Commissioners are hereby conferred upon and vested in the Board of Public Works, provided that any sums received from the collection of assessments or the sale of condemnation fund certificates as authorized by this section, more than are required to pay for the property taken or damaged in any proceeding, shall be credited to the general fund of the city.

Right to authorize special assessments carries with it right to determine when and in what manner they shall be paid. (Morrison vs Morey, 146 Mo. 543, 1. c. 567.)

Validity of certificates. (Kansas City vs Ward, 134 Mo. 172.)

Sec. 23. Defective Proceedings—Supplemental.—When by reason of any error, defect, or omission in any proceedings, or in the verdict or judgment therein that may be instituted under the provisions of this Article, a portion of the private property sought to be taken, or some interest therein, cannot be acquired, or an assessment is made against private property which cannot be enforced or collected, or when, by reason of any such defect, private property in the benefit district is omitted, the city may, by ordinance, institute,

carry on and maintain supplemental proceedings to acquire the right and title to such property or interest therein intended to be taken by the first proceeding, but which cannot on account of such defect, error or omission, be acquired thereunder, or to properly assess against any piece or parcel of private property against which an assessment was in the first proceeding erroneously made or omitted to be made, the proper amount such private property, exclusive of the improvements thereon, is benefited by the proposed improvement to be determined by the verdict of the jury in such supplemental proceedings; and the original assessments may be revived, corrected, increased or diminished as may be necessary or equitable under the provisions of this Article for the original proceedings. Such supplemental proceedings shall be instituted and conducted as to the particular piece or pieces of private property sought to be acquired or assessed in like manner and with like effect as in the original proceedings, and shall be known and described as supplemental proceedings for the purposes specified in the original ordinance; and a supplemental verdict and assessment shall be made, confirmed and copies of the original verdict certified in every particular as in the original proceedings; and the assessments as established and corrected by such supplemental verdict shall be collected by the City Treasurer in the same manner and under like conditions and restrictions, powers and duties as in the case of original proceedings.

Sec. 24. Certified Copy of Confirmation Ordinance, or Judgment, Filed With Recorder of Deeds, When.—Within six months after the confirmation of the verdict of a jury in the Municipal Court or within six months after the rendition of a final judgment vesting in the city the title of any land as provided by this Article, the city shall cause to be filed in the office of the Recorder of Deeds of Jackson County, at Kansas City, a certified copy of said confirmation ordinance, or certified copy of such judgment, as the case may be.

Sec. 25. Eminent Domain—Outside City—Sewers and Water Courses, Acquisition—Method—Cost—Tax Bills.—Whenever the city shall propose to acquire outside the corporate boundaries of the city and within the territorial limits of Jackson County, any right-of-way for sewers or any lands for use for or in connection with sewer purposes or the right to make use of any natural course

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of drainage or water course or any part thereof as a public drain or sewer route, by purchase or by the exercise of the power of eminent domain for public use as an outlet or appurtenance to any sewers built or to be built within the corporate boundaries of the city, the Common Council shall, by ordinance, describe sufficiently for identification the right-of-way, lands and natural course of drainage or water course or part thereof to be made use of proposed to be acquired as aforesaid and shall designate the sewer district or districts within the corporate boundaries of the city which shall be deemed benefited by the acquisition thereof and by the construction of such outlet and all appurtenances which may be constructed or used in connection with such outlet; thereupon the city may proceed to acquire such right-of-way, lands and right to use such natural course of drainage or water course, or part thereof, by gift, purchase or condemnation proceedings in the manner herein provided, and the whole cost of so acquiring the same, less such sum as may be appropriated by the city for that purpose or otherwise paid, shall be collected by special tax from all lands exclusive of highways, streets and alleys embraced within the said district or districts declared to be so deemed benefited in the manner hereinafter provided. The cost of constructing such outlet and all appurtenances which may be constructed in connection with such outlets, less such sum as may be appropriated by the city for that purpose or otherwise paid, shall be paid for in special tax bill, as hereinafter provided, against all lands, exclusive of highways, streets and alleys embraced within the said district or districts.

Sec. 26. Proceedings—Separate or Any Number.—The city may acquire any part of such right-of-way, lands and natural course of drainage or water course, as aforesaid, in the same condemnation proceedings or by separate condemnation proceedings, and may proceed against each owner separately or any number of owners may be joined in one proceeding, but in all cases the damages to each shall be separately assessed.

Sec. 27. Drainage—Riparian Owners—Unknown Owners, Procedure—Parties.—In case the city shall desire to acquire any such right-of-way or lands or the right to so make use of any such natural course of drainage or water course or part thereof for public use, as aforesaid, and the riparian owners of any such water course or owners of such course of drainage or of any of such lands

or of the property through which such right-of-way runs and the city cannot agree upon the proper compensation to be paid therefor, or in case the owner is incapable of contracting, be unknown or be a non-resident of the State, the city may apply to the Circuit Court of Jackson County or to any judge thereof, in vacation, by petition, setting forth a general description of such natural water course or course of drainage or describing the route of the right-of-way so sought to be acquired over or through any lands and describing the lands so sought to be acquired, the names of the owners thereof if known or if unknown, a pertinent description of the property whose owners are unknown, and praying the appointment of three disinterested freeholders of the county as commissioners or for a jury to assess the damages which such owners may severally sustain in consequence of the use of such natural water course or courses of drainage for the purposes aforesaid, or for the use of such right-of-way for the purposes aforesaid or by the taking of such lands. The owners or those having any right, title or interest in such land or natural water course or course of drainage or part thereof or land through which such right-of-way runs is sought to be appropriated, shall be made parties defendant by name if the names are known, and by description of the unknown owners of the same if their names are unknown. It shall not be necessary to make any persons defendant in respect to their ownership unless they are either in actual possession of the premises to be affected, claiming title, or have a title to the premises appearing of record upon the proper records of the county.

Condemnation proceedings are absolutely void where no attempt is made before beginning them to make agreement with owner of land. (*Wilkinson vs St. Louis Sectional Dock Co.*, 102 Mo. 130.)

Not necessary where evidence shows that no efforts, however strenuous, would have resulted in agreement. (*So. Ill. & Mo. Bridge Co. vs Stone*, 194 Mo. 175, 1 c. 187.)

Parties, note to Section 2.

Sec. 28. Petition—Summons—Notice—Publication.—Upon the filing of the petition a summons shall be issued giving such owner at least ten days' notice of the time when said petition will be heard, which summons shall be served by the sheriff of the county in the same manner as writs of summons are or may be by law required to be served. If the name or the residence of the owner be unknown or if the owners or any of them do not reside within

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the State, notice of the time of hearing the petition reciting the substance of the petition and the day fixed for the hearing thereof shall be given by publication for three weeks successively prior to the time of hearing the petition, in a newspaper published in the county.

Service, publication, etc., note to Section 2.

Sec. 29. Commissioners—Report Damages—Record Of.—

The court, or judge thereof in vacation, after being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners who shall be freeholders. residents of the county, to assess the damages which the owners may severally sustain by reason of such appropriation, who, after having viewed the property shall forthwith return under oath such assessment of damages to the clerk of such court setting forth the amount of damages, and the clerk shall file such report and record the same in the order book of the court. In estimating damages the commissioners shall always take into consideration the advantage as well as the disadvantage resulting from the establishment of the said sewer route or sewer to the lands through or over which the same may run.

Damages condemning sewer right of way where sewage pollutes stream. (Mining Co. vs City of Joplin, 124 Mo. 129; Smith vs Sedalia, 182 Mo. 1.)

Measure of damages, see note to Section 3.

Benefits may be set off against damages. (So. Ill. & Mo. Bridge Co. vs Stone, 194 Mo. 175, l. c. 188 and cases cited.)

Sec. 30. Report Notice of Filing—Exceptions to Report—New Appraisement By Jury.—Upon the filing of such report of said commissioners, the clerk of the court wherein the same is filed shall duly notify the party whose property is affected of the filing thereof. Such report may be reviewed by the court in which the proceedings are had and on written exceptions filed by either party in the clerk's office within ten days after the service of the notice aforesaid, the court shall make such order therein as right and justice may require, and may order a new appraisement upon good cause shown. Such new appraisement shall at the request of either party be made by a jury under the supervision of the court as in ordinary

cases of inquiry of damages. In all cases, the report of the commissioners when signed by a majority of them shall be taken and considered as the report of all.

Exceptions may be filed by leave of the court after ten days, if good cause is shown, and by contesting such exceptions the city waives the irregularity after an adverse ruling. (St. Louis vs Weber, 140 Mo. 515, 521.)

But probably, if improperly filed out of time, such exceptions, as in other cases, may be stricken out. (See St. Louis vs Lang, 131 Mo. 412, 1. c. 421.)

On exceptions to the report, the lat-

ter is presumptively correct; the proceeding to review is not entirely de novo, and; while the court must hear evidence as to the correctness of the valuation of the commissioners, the latter will not be disturbed unless clearly shown to be inadequate or excessive. (St. Louis vs Abeln, 170 Mo. 318, and cases referred to in the opinion. Railroad vs Pfau, 212 Mo. 398, 1. c. 412.)

Sec. 31. Costs—Commissioners' Fees.—The cost of the proceedings shall be paid by the city up to and including the filing and copying of the report of the commissioners, and the court, as to any costs made by subsequent litigation, may make such order as in its discretion may be deemed just. The court shall allow the commissioners a reasonable allowance for their services, which shall be taxed as costs in the proceedings.

Sec. 32. Possession and Use of Drainage Course By City, When.—Upon the payment to the clerk of said court of the amount so assessed or if a verdict of a jury shall have been rendered of the amount awarded by such jury for the party in whose favor the same has been assessed or awarded, the city may proceed to use such natural course of drainage or water course and construct such sewer and appurtenances and to take possession of such lands, and all further and subsequent proceedings shall only affect the amount of compensation to be allowed.

Sec. 33. Cost of Acquiring Land and Drainage Course—To Constitute a Lien—Computed by Board of Public Works—Recorded and Certified—Prima Facie Evidence—Interest—Such Special Tax, How Collected.—The whole cost of acquiring such lands and the use of such course of drainage or water course and of such right-of-way, less such sum as may have been appropriated by the city for that purpose or otherwise paid as aforesaid, shall constitute a lien on all the lands within said district or districts, exclusive of public highways, streets and alleys so declared to be deemed benefited in proportion to the area of each tract, and shall be collected

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by a special tax. Such cost shall be computed and apportioned by the Board of Public Works and set down in a book provided for that purpose and by said Board certified to be correct, and such book, and certificate or a copy thereof, or of any part thereof, certified by said Board shall be received in all courts in this State as *prima facie* evidence of the validity and equality of such special tax and of all steps and proceedings necessary to the validity and collection of such special tax. Said book, when so certified, shall be forthwith turned over to the City Treasurer, whose duty it shall be to collect such special tax at the same time the general city taxes are collected. Such special tax shall bear interest at the rate of seven per cent per annum from the date of such certificate, unless paid within sixty days after such date, and such special tax may be paid to the City Treasurer at any time. The city may also collect such special tax by suit foreclosing the lien thereof, before any justice of the peace or municipal court or other court having jurisdiction of the amount sued for, and in any such suit it shall only be necessary for the plaintiff to allege the certification and delivery of such book and the amount and non-payment of the special tax sued for, together with a description of the particular tract of land charged therewith.

Sec. 34. Special Tax Advanced By Any Person—Certificate—City Not Liable.—It shall be lawful for any person to advance to the city for the use and benefit of such district or districts so declared to be deemed benefited the whole or any part of such special tax, the amount advanced to bear interest at the rate of seven per cent per annum until collected from such special tax. A certificate of such advance shall be issued to such person by the Mayor and Comptroller and all sums thereafter collected on such special tax shall be paid over to such person on demand as of the day on which the same was collected until the whole amount so advanced and interest as aforesaid shall have been duly paid; but the city shall in no event be liable to such person in any manner whatever for the amount so advanced or any part thereof, but the collections from such special tax shall constitute the only resource for the payment of the same.

Sec. 35. Cost of Construction of Outlet, Sewer, Etc.—Special Tax Bills.—The cost of constructing any outlet sewer, appurtenances and works in connection therewith or to be used in connection therewith on or along said right-of-way course or drain-

age or water course or on said land or any part thereof, less such sum as may have been appropriated by the city for that purpose or otherwise paid as aforesaid, shall be paid for wholly or in part in special tax bills against all lands embraced within said district or districts, exclusive of public highways, streets, and alleys, in proportion to the area of each tract, the work to be done and the special tax bills to be issued in accordance with the provisions of this Charter concerning the construction of district sewers and the issuing of special tax bills therefor so far as the same may be applicable.

Sec. 36. Common Council—Powers Under This Article.—

The Common Council shall have power to appropriate money for the purposes aforesaid and to pass all ordinances not inconsistent with this Charter or the Constitution or laws of the State, which may be deemed necessary or expedient to further carry out the purpose and intent of this Article.

Sec. 37. Condemnation Beyond City Limits in Missouri—Proceedings—Compensation.—In all cases where the city shall provide by ordinance for the condemnation of land beyond the city limits in the State of Missouri for any purposes specified in this Charter where the same is to be paid for by the city out of the general fund, or by the sale of bonds, or in any manner except the assessment of benefits, the proceedings for the condemnation of such land shall be begun and conducted in the Circuit Court of the County where said land to be acquired is situated, and the compensation or damages for the taking of said land shall be ascertained in the same manner provided for acquiring land in Jackson County, as set forth in Sections 27, 28, 29, 30, 31 and 32 of this Article.

ARTICLE VII.

GRADING.

Section.

1. Common Council, Powers of, to Establish Grade, or Change Grade—Right of Remonstrance—Time—Recommendation of Board of Public Works—General or Special Election—To Approve Ordinance.
2. Benefit District.
3. Plat of Property Benefited—Engineer to Furnish.
4. Proceedings in Circuit Court—In Municipal Court, When—Appeal—Lien—Interest.
5. Proceedings in Circuit Court—Order, Form of—Publication of Order—Further Order—Service on Parties—Jurisdiction of Court on Publication—Claims for Damages to be Filed.
6. Board of Commissioners—Six Freeholders—Fees—"Disinterested Freeholders" Construed.
7. Commissioners—Oath—Evidence—View Property—Verdict to State What—Estimating Damages—Failure to Agree—New Commissioners.
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Section.

9. Verdict—Confirmation—Judgment—Docketed and Indexed—Execution, Recitals In.
10. Abutting Property Left Below Grade—Proceedings—Condemnation of Easement—Easement Acquired, Not to Prevent Use of by Owner When—Claim for Damages—Failure to Claim—Waiver.
11. Judgment—Appeal—Bond—Interest—Docketed for next Term.
12. Proceedings to Ascertain Damages—Conform to What.
13. When Grading May be Done—Payment of Damages Into Court.
14. Exclusive Remedy—Verdict Conclusive—Benefit District Unreasonable—Proceedings.
15. Damages Paid Into Court—Several Claimants—Determination Costs.
16. Repeal of Ordinance Before Payment of Assessments.
17. City Treasurer to Receive Benefit Assessments—Satisfies Judgment.
18. Additional Remedies—Laws of the State—City to Proceed to Grade, When.

Section 1. Common Council, Powers Of, to Establish Grade, or Change Grade—Right of Remonstrance—Time—Recommendation of Board of Public Works—General or Special Election—To Approve Ordinance.—The Common Council shall have at all times the power to establish the grade and to change the grade already established of any street, alley, avenue, public highway or part thereof, as often as it may be deemed best for the public interest, and to cause the same or any part thereof to be graded to the established grade or to any change thereof; *Provided, however,* That when a change is proposed to be made in the grade of any

street, alley, avenue, public highway or part thereof, which has once been established, the Common Council shall by resolution declare the work of improvement to be necessary, and cause such resolution, or the substance thereof, to be published in the newspaper doing the city printing, for ten days (Sundays included), and unless the resident owners of the city who shall own the majority in front feet of all the lands belonging to such resident owners fronting on the street, alley, avenue, public highway or part thereof to be improved, shall, within thirty days after the first day of the publication of such resolution, file with the City Clerk their remonstrance against the proposed change, then the Common Council shall have power by ordinance to cause the proposed change to be made; *Provided further, however*, That no such resolution or ordinance shall be passed by the Common Council, except upon the recommendation of the Board of Public Works endorsed thereon. If the remonstrance of the resident property owners above mentioned shall be filed with the City Clerk, as herein provided, the power of the Common Council to make the proposed change in the grade of such street, alley, avenue, public highway or part thereof, shall cease until a sufficient number of persons so remonstrating, or their grantees, shall, in writing, withdraw their names or the property represented by them from such remonstrance, so that said remonstrance shall cease to represent a majority of the resident owners as above provided, or until the proposed ordinance establishing or re-establishing such grade shall have been approved by the qualified voters of the city voting at a general election or at a special election to be held for such purpose, whereupon the Council shall have the power to pass said proposed ordinance and cause said improvement to be made.

R. S. Mo. 1899, Section 6302. Repealed Laws 1909, p. 328.

Fee simple title is not acquired by condemnation, and property cannot be used for other purposes without additional compensation to owner. (*Belcher Sugar Co. vs Elevator Co.*, 82 Mo. 121, s. c. 101 Mo. 192; *State ex rel. vs Longfellow*, 169 Mo. 109; *Cartwright vs Tel. Co.*, 205 Mo. 126; *State ex rel. vs R. R. Co.*, 206 Mo. 251.)

Grade must be established by Common Council by ordinance, and this power cannot be delegated. (*Thomson vs Boonville*, 61 Mo. 282; *Stewart vs City of Clinton*, 79 Mo. 603; *Werth vs Springfield*, 22 Mo. App. 12; *City of*

Unionville vs Martin, 95 Mo. App. 28, l. c. 36, and cases cited.)

Grade must be established before grading. (*Clapton vs Taylor*, 49 Mo. App. 117; *Gehling vs St. Joseph*, 49 Mo. App. 430; and cannot be changed so as to affect a grading contract made but not completed. (*Brady vs Rogers*, 63 Mo. App. 222.)

Acts of Legislature of March 26th, 1885, and March 21st, 1887, relating to grading were superseded by the provisions of the former charter. (*State ex rel. Kansas City vs Field*, 99 Mo. 352. R. S. Mo. 1899, Secs. 6302 to 6307. Repealed Laws 1909, p. 328.)

See relation of City to State, Introductory note.

Provisions of Charter confining right of petition and remonstrance to resident property owners not unconstitutional as a discrimination against non-residents. (*Buchan vs Broadwell*, 88 Mo. 31.)

Bona fide resident owners are intended, and not grantees receiving title for purpose of effecting or defeating improvement. (*Forbis vs Bradbury*, 58 Mo. App. 506.)

Publication of resolution is in nature of notice to property holders and is required to be made for purpose of affording them an opportunity to appear before Council and interpose any objections they may have. (*Barber Asphalt Paving Co. vs Muchenberger*, 105 Mo. App. 47, l. c. 50.)

Council does not acquire jurisdiction until expiration of ten days. Remonstrance may be impeached by evidence controverting ownership and authority of subscribers thereto. Remonstrant may withdraw name by filing letter with clerk. Signature of administrator of an estate to remonstrance is not signature of owner. Where title to property affected stands in name of partnership, party whose name alone appeared in title can be counted. Officers of corporation cannot file remonstrance unless specially authorized by board of directors. (*City of Sedalia ex rel, vs Montgomery*, 109 Mo. App. 197.)

Publication of notice and proof of publication, see note to Article XVIII, Section 13.

Sec. 2. Benefit District.—When the property owners to be disturbed or damaged by the grading, or re-grading of any street, alley, avenue, public highway or part thereof are lawfully entitled to remuneration or damages under the Constitution of the State of Missouri, and shall not have waived any right or claim thereto, the ordinance which shall order the grading or re-grading of any street, avenue, alley, public highway or part thereof, shall also prescribe and determine the limits within which private property is deemed benefited by the proposed grading or re-grading.

R. S. Mo., 1899, Section 6303. Repealed Laws 1909, p. 328.

It is within power of Legislature to create special taxing district and to charge cost of local improvement in whole or part upon property in said district either according to valuation

or superficial area or frontage. (*Meier vs St. Louis*, 180 Mo. 391; *Heman Construction Co. vs Railroad*, 206 Mo. 172, l. c. 179.

As to what is waiver of damages see note to Section 7.

Sec. 3. Plat of Property Benefited—Engineer to Furnish.—Within thirty days after the taking effect of the ordinance, the City Engineer shall furnish the Mayor a map or plat containing a correct description of the several lots or parcels of private property in the benefit limits prescribed in said ordinance, but a failure to furnish the map or plat within the specified time shall not invalidate the proceedings.

R. S. Mo. 1899, Section 6304. Repealed Laws 1909, p. 328.

Purpose of map. Jurisdiction does not depend upon filing or correctness

of map. (*Kansas City vs Smart*, 128 Mo. 272; *City of Tarkio vs Clark*, 186 Mo. 285, l. c. 299.)

Sec. 4. Proceedings in Circuit Court—In Municipal Court, When.—The proceedings hereinafter provided for shall be heard and determined by the Circuit Court of Jackson County, Missouri, at Kansas City, or if not in session, by a judge thereof, and when they are had in vacation the same record thereof shall be made and kept as if such proceedings had been had in term time; *Provided, however,* That whenever it is deemed advisable by the Common Council, and upon ordinance therefor, the proceedings hereinafter provided for in this Article may be commenced in the first instance and maintained and determined in the Municipal Court of the city, and such court shall have original, full and complete control and jurisdiction thereof, and of the parties thereto, and such proceedings may be commenced, maintained and determined as near as may be in similar manner, with similar procedure and like process and service thereof as is hereinafter provided for the procedure in the Circuit Court of Jackson County, Missouri, at Kansas City; and whenever, in such event, the Mayor of the city shall file, or cause to be filed, in the Municipal Court a duly certified copy of the ordinance of the city providing for such grading or re-grading with the statement by map or plat above provided for, the Municipal Court shall become fully possessed of the proceedings with full power therein, and have complete and full control and jurisdiction thereof. In such case the Municipal Court shall, upon application of the city, make all orders and take such steps and follow such procedure as is hereinafter provided for the Circuit Court of Jackson County, Missouri, at Kansas City, or the judge thereof.

Appeal—Lien—Interest.—In case the city or any person affected by the proceedings shall feel aggrieved by the verdict of the jury in the Municipal Court, he may, within twenty days of the filing of the verdict, appeal to the Circuit Court of Jackson County, Missouri, at Kansas City. Such appeal shall be perfected in the manner provided in Section 6 of Article VI of this Charter, and upon the perfection of such appeal, said cause shall be tried *de novo* in the said Circuit Court. If said cause be so tried in the Municipal Court and be not appealed, as above provided, the several lots or parcels of private property assessed to pay compensation shall stand charged and be bound respectively for the payment of such assessments, with the lien thereof charged from the date of enactment of the ordinance for the improvement until paid. If such assessment be not paid within sixty days after the

rendition of the verdict, the same shall bear interest at the rate, and shall be collected in the manner provided by Section 4 of Article VI of this Charter.

R. S. Mo. 1899, Section 6305. Repealed Laws 1909, p. 328.

Mayor under former Charter and municipal court under present Charter has same power as Circuit Court for conducting these proceedings and the

same presumptions are indulged in favor of correctness of its actions. (Kansas City vs Smart, 128 Mo. 272; Leonard vs Sparks, 117 Mo. 103, 1. c. 109.)

Sec. 5. Proceedings in Circuit Court—Order, Form of.—

When the Mayor shall file, or cause to be filed, a certified copy of said ordinance, with a copy of the map or plat provided for in Section 3 of this Article, in the Circuit Court, or with the clerk thereof, such court, or the judge thereof, shall fix a day and place for assessing the damages and benefits to arise from the proposed grading or re-grading, and shall make an order reciting the title of the ordinance and stating the general object and nature of the ordinance; and also stating the limits within which private property is benefited by the proposed grading or re-grading, as determined and prescribed by the ordinance, and said order shall be directed to all whom it may concern, without naming them, notifying them of the day and place fixed for the ascertaining of damages and benefits to arise from said grading or re-grading, and that unless they file their claim for damages as herein required they shall thereafter be precluded from making any claim on account thereof, which order may be substantially in the following form, to-wit:

“Kansas City, Missouri.

TO ALL WHOM IT MAY CONCERN: Notice is hereby given that a certified copy of an ordinance of Kansas City, Missouri, No., approved on the day of 19, entitled ‘ ’ has been duly filed and presented to this Division No. of the Circuit Court of Jackson County, Missouri, at Kansas City, which ordinance provides for the grading (or re-grading) of street in said city, from street to street as specified therein; that private property may be disturbed or damaged by said proposed grading and that the owner or owners thereof and parties interested may be entitled to remuneration; that the limits prescribed and determined by said ordinance within which private property is deemed benefited and may be

assessed to pay said remuneration are as follows: 'Commencing to beginning'; that the day of, 19. . . , is the day, and the court room of said court in the county court house in Kansas City, Missouri, is the place fixed by the court for the ascertaining and assessing of the damages and benefits to arise from said proposed grading; that unless claimants for damages file claim therefor before the day fixed aforesaid, or before the day to which said proceedings may be postponed or continued, they will thereafter be precluded from making any claim for remuneration and that property assessed with benefits to pay remuneration will be sold if assessment is not paid.

Attest:

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Publication of Order—Further Order—Service on Parties—Jurisdiction of Court on Publication—Claims for Damages to be Filed.—A copy of such order shall be published in each issue of a newspaper at the time doing the city printing, for ten days (Sundays included), the last insertion to be not more than one week prior to the day so fixed for said hearing. The court, or judge thereof, may, at the time of making said order, further order that all or any portion of the residents of the city owning or having an interest in real estate fronting on the street, alley, avenue, public highway or part thereof, proposed to be graded or re-graded, or in the real estate within the limits of the district prescribed by the ordinance within which private property is deemed benefited by the proposed grading or re-grading be served with a copy of said order, either by delivering to each of such owners a copy of said order or leaving such copy at their usual place of abode with some member of their respective families over the age of fifteen years, and in the case of resident corporations, by service of said order in like manner as with summons in ordinary civil causes. If service of such notice cannot be made on any or all of such parties as above described, within the city limits, when personal service is ordered by said court, or judge, the return on such notice shall so state. Thereupon an *alias* order, specifying a different date may be made by said court, or judge, if deemed advisable, notifying such unserved parties of the facts, as in case of original notice above provided. Said cause may be continued or post-

poned from time to time. It shall not be required in any case to bring in any person other than the owners of the property or those interested therein, who were such at the time of the taking effect of the ordinance providing for the improvement, and the parties claiming or holding through or under such owners or parties interested, or any of them, shall be bound by the proceedings as fully as if they were brought in; but any person having any interest in the real estate liable to be affected by said proceeding may, upon application and entering his appearance, be made a party thereto; but no notice of said proceedings shall be necessary to the validity thereof, except the publication of the order, as herein provided. Notice so given by publication shall be sufficient to authorize the court, or the judge thereof in vacation, to hear and determine the cause and to make any finding or order therein as though all the parties had been sued by their proper names and had been personally served. Affidavit by the publisher, manager, or any person connected with the newspaper in which such order was published, accompanied with a copy of the notice, shall be evidence of the fact of the publication of the notice or order as stated therein. At any time before the day set for the hearing or before the day to which said cause may have been postponed or continued as designated in either of aforesaid notices, any person claiming damages by reason of the aforesaid grading or re-grading, may file, or cause to be filed, with the clerk of said court, a description of the property claimed to be damaged and the interest of the claimant therein. The clerk shall note the filing of such claim as a part of the record of said cause. If no claim be filed before the day set for the hearing of said cause, or the day to which said cause has been postponed or continued, as above provided, the court, or judge thereof, in vacation, shall make an order finding that no such claim has been filed, and thereupon the grading or re-grading may then be done, or made, and no claim for damages therefor shall thereafter be made or considered. The service of any notice or process required by this Article or ordered by the court, or judge thereof in vacation, may be made by a policeman of the city, or by any constable or other officer authorized to serve or return notices, and any return of service by a policeman, constable or other officer shall be evidence of the facts therein stated.

R. S. Mo. 1899, Section 6306. Repealed Laws, 1909, p. 328.

For the proceeding, parties, insti-

tution and conduct of the action, notice, process, service and publication, see note to Article 6, Section 2.

Sec. 6. Board of Commissioners—Six Freeholders—Fees—“Disinterested Freeholders” Construed.—On the day set for hearing, if notice has been given as hereinbefore required, the court, or judge, shall appoint and cause to be empaneled a board of commissioners composed of six men, who shall be disinterested freeholders of the city, and such commissioners shall be allowed the same fee that jurors are allowed for their services. The term “disinterested freeholder,” as used in this Article, shall not be so construed or defined as to exclude or disqualify any person interested in property by reason of the fact that he is trustee in a deed of trust upon property taken or damaged or within the benefit limits.

See note to Article 6, Section 2, The Jury.

Sec. 7. Commissioners—Oath—Evidence—View Property—Verdict to State What—Estimating Damages—Failure to Agree—New Commissioners.—The commissioners provided for in the preceding section shall be sworn to ascertain and report the actual damages, or just compensation, to be paid in each case separately, as well as the benefits to be assessed, under such instructions as shall, after hearing the parties, be given them by the court or judge. The parties interested may submit evidence to the commissioners, and the commissioners shall examine personally each piece of property described on such map or plat, and all property claimed to be damaged by such proposed grading or re-grading. The commissioners shall ascertain and state in the report or verdict:

First: The amount of actual damage to each piece of private property that will be damaged by reason of the proposed grading or re-grading, making just allowance for all special benefits to such piece of property from such grading or re-grading, and when the damages to any piece of property do not exceed the benefits thereto from the proposed improvement, the commissioners shall not report any allowance or damages to such piece.

Second: If the commissioners shall find that private property is actually damaged by reason of the proposed improvement, to pay the total amount of such damages allowed, they shall first assess against the city such sum as is equal to the amount of benefits the city at large will receive from the proposed improvement, and the balance of the sum so awarded as damages and not assessed against

the city the commissioners shall assess against the private property within the benefit limits prescribed in the ordinance, but excluding from such assessment any piece of private property to which damages are awarded on account of the proposed improvement, when the damages allowed exceed the benefits assessed against such piece of private property; and no piece of private property shall be assessed with benefits in any amount in excess of the actual benefits which the same will receive by reason of the proposed improvement; and in determining such actual benefits to any piece of private property, the damages which it may have sustained, but for which no claim was made, shall be taken into consideration by the commissioners. If the commissioners cannot agree the court may discharge them, and may proceed to empanel another board; but the order to empanel a new board of commissioners must be made on the day of discharging any board of commissioners and must name the time and place of empaneling the new board.

See note to Article VI, Section 3.

Property Damaged By Change of Grade.—Prior to constitution of 1875, city in legitimate exercise of its powers could change grade by ordinance without being liable for consequential damages, unless injury resulted from negligent or improper manner in which the work was done. (*St. Louis vs Gurno*, 12 Mo. 415; *Taylor vs St. Louis*, 14 Mo. 20; *Hoffman vs St. Louis*, 15 Mo. 651.) A contrary decision was made in *Thurston vs St. Joseph*, 51 Mo. 510, but the former rule was again followed in later cases (*Schattner vs Kansas City*, 53 Mo. 162; *Imler vs Springfield*, 55 Mo. 119; *Wegmann vs City of Jefferson*, 61 Mo. 55; *Stewart vs Clinton*, 79 Mo. 603.)

Constitution was so amended in 1875 that compensation was required when property was damaged as well as taken for public use, and since that time it is settled law that when property is damaged by establishing the grade of a street, or by raising or lowering the grade already established, it is damaged for public use within the meaning of the Constitution. (*Hickman vs Kansas City*, 120 Mo. 110, 1. c. 116; *Werth vs Springfield*, 78 Mo. 107, 110; *Householder vs Kansas City*, 83 Mo. 488; *Clemens vs Ins. Co.*, 184 Mo. 46, 1. c. 53.)

Although grade established prior to Constitution of 1875, owner of property damaged entitled to compensation. (*St. Louis vs Lang*, 131 Mo. 412.)

The change of grade need not be the whole width of the road-bed. (*Stickford vs St. Louis*, 7 Mo. App. 217; *Stickford vs St. Louis*, 75 Mo. 309.)

Abutting owner entitled to damages for a material change in the grade from the natural surface. (*Investment Co. vs St. Joseph*, 191 Mo. 459; *Cole vs St. Louis*, 132 Mo. 633, 640, and cases cited; *Davis vs Ry.* 119 Mo. 180; *Fred vs Railway*, 65 Mo. App. 121; *Fuess vs Kansas City*, 191 Mo. 692.)

Grades of streets are usually fixed by relation to "City directrix." (*St. Louis vs Lang*, 131 Mo. 412.)

The grade of a street between intersecting streets is a plane. (*Pratt vs Street Railway*, 49 Mo. App. 63.)

Macadamizing street in careful manner upon established grade will not entitle abutting owners to damages. (*Gibson vs Owens*, 115 Mo. 258.)

City is not liable for damages for surface water, caused by grading, in absence of negligence. (*Payne vs Railroad*, 112 Mo. 6.)

Damages—Ground of recovery is owner's easement or property interest in the street and in order to recover, or to bring himself within the amendment he must show a special and peculiar injury to his property, or some easement connected therewith, different in kind from that of others. (*Clemens vs Ins. Co.* 184 Mo. 46, 54 and cases there cited; *Van De Vere vs Kansas City*, 107 Mo. 83; *Rude vs St. Louis*, 93 Mo. 408; *Knap, Stout & Co. vs St. Louis*, 153 Mo. 560, l. c. 572.) See also where a street railroad was constructed. *Ruckert vs Grand Ave. Ry.*, 163 Mo. 260, l. c. 278, and steam railroad. *De Geoffrey vs Merchants Bridge*, 179 Mo. 698, l. c. 705, et seq. *Baker vs McDaniel*, 178 Mo. 447; *Realty Co. vs Deere Plow Co.*, 208 Mo. 66.

Lot must abut on street. (*Gardner vs St. Joseph*, 96 Mo. App. 657; *Burde vs St. Joseph*, 130 Mo. App. 453; but see *Heer Dry Goods Co. vs Ry. Co.*, 41 Mo. App. 63; *Milling Co. vs Riley*, 133 Mo. 574.)

Different rule as to alley in same block. (*Dries vs St. Joseph*, 98 Mo. App. 611.)

No compensation for improvements put on lot after grade was established. (*Clinkenbeard vs St. Joseph*, 122 Mo. 641; *Davis vs Railway*, 119 Mo. 180.)

Whether the change be from the natural to an artificial grade or from one artificial grade to another, the measure of damages is the difference in value of the property before and after the change, less any special benefit not common to all property in the neighborhood, caused by such change of grade; and this is the rule whether the cost of the improvement be paid by the city or taxed as benefit assessments against the abutting property; the cost of the improvement taxed against the abutting property should not be considered. (*Investment Co. vs St. Joseph*, 191 Mo. 459; *Fuess vs Kansas City*, 191 Mo. 692; *Hickman vs Kansas City*, 120 Mo. 110; *Cole vs St. Louis*, 132 Mo. 633; *Waldron vs Kansas City*, 69 Mo. App. 50.)

As to measure of damages where access to a highway is cut off, being the difference in market value before and after such cut-off, see also *Slatery vs St. Louis*, 120 Mo. 183; *Choteau*

vs St. Louis, 8 Mo. App. 48; *Faust vs Pope*, 132 Mo. App. 287.

Cost of subsequent grading is not element of damages. (*Kansas City vs Railway*, 187 Mo. 146, l. c. 156; *Widman Investment Co. vs St. Joseph*, 191 Mo. 459, l. c. 468.)

Increased cost of making improvements occasioned by change of grade. (*Fuess vs Kansas City*, 191 Mo. 692.)

Measure of Damages.—Use of word "property" in instruction criticised, and use of word "lots" recommended. (*Dale vs St. Joseph*, 59 Mo. App. 566.)

Fact that owner had received damages in former grading proceeding for other street or alley does not affect damages or measure of damages. Rule remains same. (*Robinson vs St. Joseph*, 97 Mo. App. 503.)

Where the expense of protection against threatened injury, or repairing the injury by restoring the premises as near as may be to former condition is less than the diminution in the market value by reason of the grading, such cost of restoration is the proper measure of damages. (*Smith vs Kansas City*, 128 Mo. 23; *Kansas City vs Morton*, 117 Mo. 446; *Fuess vs Kansas City*, 191 Mo. 692, l. c. 697; *Tegele vs Kansas City*, 95 Mo. App. 162; *Stroker vs St. Joseph*, 117 Mo. App. 350.)

Damage for change of grade. Landlord and tenant. (*St. Louis vs Nelson*, 108 Mo. App. 210.)

Damages because of removal of shade trees, when allowed; (*Walker vs Sedalia*, 74 Mo. App. 70.) And when not. (*Colston vs St. Joseph*, 106 Mo. App. 714. *Scott vs Marshall*, 110 Mo. App. 178.)

Property owner petitioning for change of grade estopped from claiming damages. (*Cross vs Kansas City*, 90 Mo. 13; *Valle vs City of Independence*, 116 Mo. 333; *Carson vs St. Joseph*, 91 Mo. App. 324.)

Consent to construction and operation of cable railway is not a consent to change grade. (*Fred vs Cable Ry.*, 65 Mo. App. 121.)

Nor is request of plaintiff, after the grading of the road-bed by the cable company that the grading of the street be finished. (*Hickman vs Kansas City*, 120 Mo. 110, 120.)

When owner asks that established grade be changed from one grade

to another he does not necessarily waive damages for the act of grading street to such established grade. (*Fairbanks vs St. Joseph*, 102 Mo. App. 425.)

Benefits.—See note to Article VI, Section 3. Special benefits only to be charged.

Rule for assessment of damages and benefits, discussed and stated. (*Kansas City vs Morton*, 117 Mo. 446; *Carroll vs City of Marshall*, 99 Mo. App. 464.)

Assessments for grading held not invalid because dirt excavated was used to fill and thereby improve another street while property fronting thereon was not taxed. (*K. C. Grading Co. vs Holden*, 107 Mo. 305.)

The benefit to be deducted from the damages sustained by the land owner by the taking or damaging his property is only the direct and peculiar benefit that would result in particular to his tract, and not the general benefit that his lands would derive in common with the lands of other owners in his neighborhood. (*Cole vs St. Louis*, 132 Mo. 633, 640; *So. Ill. Bridge Co. vs Stone*, 194 Mo. 175; *State ex rel. vs Kansas City*, 89 Mo. 34.)

Evidence admissible that property is less valuable because located in line of a street proposed to be extended. (*Kansas City vs Hill*, 80 Mo. 523.)

Assessment cannot exceed amount property is benefited. (*Tyler vs St. Louis*, 56 Mo. 60; *Zoeller vs Kellogg*, 4 Mo. App. 163; *St. Louis vs Frank*, 9 Mo. App. 579.)

City not primarily liable for benefits assessed against private prop-

erty. (*Schaffner vs St. Louis*, 31 Mo. 264.)

Fact that owner of property assessed with benefits received notice only by publication does not militate against validity of assessment. (*Eyssell vs St. Louis*, 168 Mo. 607, 1. c. 616.)

Validity of tax bills for grading not affected by failure to assess damages. (*Gibson vs Owens*, 115 Mo. 258; *Keith vs Bingham*, 100 Mo. 300, 1. c. 306.)

Nor by failure to provide compensation for damages. (*Springfield vs Baker*, 56 Mo. App. 637.)

Change of Grade.—Matters that will be taken into consideration by Court of Chancery upon application for injunction; (*McElroy vs Kansas City*, 21 Fed. Rep. 257.)

Where the property is not taken, and proprietary rights are not disturbed, but the damage to property is consequential, due to a change in the grade, the constitutional provision prohibiting taking or damaging of private property without just compensation, does not entitle owner to damages before work is done, and he is not entitled to an injunction until the same are ascertained and paid. (*Clemens vs Ins. Co.*, 184 Mo. 46.) See further as to when an injunction will lie, cases cited in the opinion; also *Iron Co. vs St. Louis*, 138 Mo. 608.

Where city has abandoned improvement or it is impossible to undertake it because ordinance which made it possible has been repealed, injunction will not be granted. (*Lester Realty Co. vs St. Louis*, 169 Mo. 227.)

Sec. 8. Verdict—Signed and Returned, When—To Contain What—When Set Aside—Costs.—The verdict of the board of commissioners shall be signed by each commissioner, and delivered to the court or judge on the day fixed for such report at the hearing of the same unless said commissioners are granted further time by the court or judge. Such report or verdict shall contain a correct description of each lot or parcel of property damaged, the names of the claimants, and the amount of damages thereto; also the amount of benefits assessed against the city, together with a correct description of each lot or parcel of private property assessed with benefits

and the amount assessed against the same. The City Engineer, or his assistant, shall, when requested by the court or judge, put the verdict or report in proper form. The court or judge may, on its or his own motion, or on the motion of the city, or of any party interested in the proceedings, for good cause, set aside the verdict or report of any board of commissioners, and thereupon appoint a new board to perform the duties in this Article prescribed, and fix a time and place for empaneling such other board and a rehearing of the whole matter. The court costs, up to and including the judgment, and costs of giving the notices herein, shall be paid by the city.

Sec. 9. Verdict—Confirmation—Judgment—Docketed and Indexed—Execution, Recitals in.—The verdict and report shall, unless set aside, be confirmed by the court or judge thereof, and judgment entered thereon that the city pay the damages assessed therein, and that the city recover the respective amounts assessed against private property, and that the several lots or parcels of private property, so assessed to pay compensation by the verdict or report, stand severally charged and be bound for the payment of the respective assessments, also the interest and costs that may accrue thereon. Such judgment shall be by the clerk docketed and indexed in the books used for that purpose, as provided for in Section 12, Article VI, of this Charter. Such judgment may be enforced by a special execution if the same is not paid, or as to the portion not paid. The judgment as to the benefits assessed against private property shall bear interest at the rate of seven per cent per annum from the date of such judgment, unless appealed from; but in case of an appeal, interest shall be charged only from date of affirmance or dismissal of the appeal in the Appellate Court. The execution herein authorized shall be deemed sufficient if it recites the date of the judgment, the amount assessed against each tract described therein, the rate of interest thereon, and the date when it begins to accrue, and state that such tract or tracts were assessed to pay compensation for damages to private property for grading or re-grading of a street, alley, avenue, public highway or part thereof, as the same may be, giving the title and date of approval of the ordinance ordering such grading or re-grading, and command the officer to whom such execution is directed to sell each tract or parcel of property therein described, or so much thereof as may be necessary to satisfy the assessment and interest and costs due thereon.

Sec. 10. Abutting Property Left Below Grade—Proceedings.
—In all cases where the grading or regrading of a street, alley, avenue, boulevard or public highway, or part thereof, would cause an embankment or fill to be made, leaving any abutting property below the proposed grade of the street, the Common Council shall have authority in the ordinance for such grading to provide for the condemnation of an easement in said abutting property, or a right to support said embankment or fill so far as may be necessary to bring the street to the required grade, and by allowing the material of which said embankment is made to fall upon the abutting land at the natural slope so that the surface of said street may be graded the full width thereof. In such case the Board of Public Works shall prepare a plat showing a profile of the portion of the street, avenue, alley, boulevard or other public highway proposed to be graded, and indicate thereon approximately the amount of the encroachment of the embankment upon the abutting property. Said plat shall be referred to and identified in said ordinance. In such cases the notice to be given shall state that such easement is sought to be acquired in said proceedings.

Condemnation of Easement—Easement Acquired, Not to Prevent Use by Owner, When—Claim for Damages.—Such easement acquired by the city shall not prevent the use of property to the line of the street by the owner or occupant thereof; *Provided*, That if he shall remove the support of an embankment he shall support the same by a sufficient wall, or by some other method satisfactory to the City Engineer. In all cases where an easement shall be condemned as herein provided, any person interested in any property affected thereby, who makes claim for damages therefor as provided in case of damages on account of such grading, shall be entitled to have the commissioners determine the damages caused by said easement in addition to the damages provided for in Section 7 of this Article.

Failure to Claim—Waiver.—Any person interested in any property affected by such proceedings, who fails to file a claim for damages within the time and in the manner herein provided for the filing of a claim for damages on account of the proposed grading, shall be deemed to have waived the same.

Sec. 11. Judgment—Appeal—Bond—Interest—Docketed for Next Term.—Any party aggrieved by the judgment may take an appeal therefrom by filing such affidavit as is required in appealing civil cases, and filing a bond in such sum and with such security as may be approved by the Circuit Court, or the judge thereof in vacation, conditioned that the party appealing, should the judgment be affirmed by the Appellate Court, or if such appeal should be dismissed, shall pay all costs of such appeal. The bond or affidavit for such appeal, however, shall be filed within twenty days from the date of the judgment, and the appeal shall be perfected within sixty days from the date of the judgment, unless further time be granted by the court. In case of appeal, the judgment shall stand suspended until the appeal is disposed of, and no interest shall be collected on assessments until such appeal be affirmed or dismissed; *Provided, however,* That the party appealing shall pay interest at the rate of seven per cent per annum on his assessment unless such appeal is reversed. No writ of error shall be allowed. The Clerk of the Appellate Court shall put such case upon the docket for hearing at the next term of that court, if the appeal is allowed. No error or defect not affecting the rights of the appellant shall work a reversal of the judgment.

See note to Article 6, Section 7.

Sec. 12. Proceedings to Ascertain Damages—Conform to What.—The proceedings herein shall in all respects not herein provided for conform as near as may be to the practice and procedure in civil cases, including the sale under execution and the making of deeds to purchasers. The city shall have power to purchase at such sales.

Sec. 13. When Grading May Be Done—Payment of Damages Into Court.—Should no claim for damages be filed at any time before the day set for hearing as provided in this article, or if the verdict or report of the commissioners shall declare that no damages will result to private property from the proposed grading or re-grading, or if damages assessed by said verdict or report shall be paid to the owners, or into court for them, the city may proceed to cause the grading or re-grading to be done according to the ordinance. Payment to the clerk of the court for the owner shall be deemed a payment into court of any damages assessed.

Sec. 14. Exclusive Remedy—Verdict Conclusive—Benefit District, Unreasonable—Proceedings.—The proceedings herein prescribed for ascertaining the damages or compensation to private property from grading or re-grading of streets, avenues, alleys, public highways, or parts thereof, shall be taken and held by the courts as excluding every other method or remedy for such ascertainment. Any person failing to receive an award of damages in the proceedings herein authorized shall be held concluded by the verdict or report of the commissioners and the judgment thereon; and such verdict or report shall in every other proceeding, legal and equitable, be taken and held as conclusive as to what private property will be damaged and benefited, or either, and the extent thereof, by the proposed grading or re-grading, subject to review only as herein allowed; *Provided, however,* That should the court or judge upon evidence find that the benefit district prescribed by the Common Council is unreasonable, it or he can so declare and cause an entry of such finding to be placed on record in the cause; and such finding shall cause all the proceedings had under such ordinance to be null and void; and an appeal from such finding of the court or judge may be taken in the same manner as in any ordinary civil case. The inquiry as to the reasonableness or unreasonableness of the ordinance in the matter mentioned may be heard and determined by the court or judge before the submission of any other testimony in the case, or it may be submitted and disposed of by the court at any time before the verdict or report of the commissioners.

Constitutional provision is self-enforcing and although the Legislature may have enacted no law providing for a mode for ascertainment and payment of the compensation provided for, resort may be had to any common law action affording an appropriate means of redress. (*Hickman vs Kansas City*, 120 Mo. 110, 117, *Householder vs Kansas City*, 83 Mo. 488; *Keith vs Bingham*, 100 Mo. 300; *Sheehy vs Cable Co.*, 94 Mo. 574, 578, et seq.)

A statutory remedy purporting to be an exclusive remedy must, in order to be exclusive, be commensurate with constitutional right and remedies which owner is entitled to for his pro-

tection. (*Hickman vs Kansas City*, 120 Mo. 110, 118, 119; *Markowitz vs Kansas City*, 125 Mo. 485; *Jamison vs Springfield*, 53 Mo. 224; *Imler vs Springfield*, 80 Mo. App. 669.)

When damages are not ascertained in this manner an action will lie against the city. (*Gardner vs St. Joseph*, 96 Mo. App. 657; *Hickman vs City of Kansas*, 120 Mo. 110; *Fuess vs Kansas City*, 191 Mo. 692; *Investment Co. vs St. Joseph*, 191 Mo. 459.)

Court may declare benefit district unreasonable, but cannot establish new district. (*Kansas City vs Morton*, 117 Mo. 446.)

Sec. 15. Damages Paid Into Court—Several Claimants—Determination—Costs.—When damages are assessed to any piece or parcel of private property and paid into court, the right to such damages, if there be more than one claimant, may be determined by the court on motion of any party claiming an interest therein, but the costs resulting from such motion shall not be assessed against the city. The court may require the claimant to interplead for the fund according to equity.

See note to Article VI, Section 11.

Sec. 16. Repeal of Ordinance Before Payment of Assessments.—The city shall have the power at any time before any of the parties assessed with benefits shall have paid the amount so assessed, to repeal the ordinance ordering the proposed grading or re-grading, if such repeal be deemed for the best interests of the city, and in such event the judgment for damages and benefits shall become void.

See note to Article VI, Section 15.

Sec. 17. City Treasurer to Receive Benefit Assessments—Satisfies Judgment.—It shall be the duty of the city treasurer to receive the benefit assessments on private property at any time after the conclusion of the proceedings before the issuance of execution. Payment of the benefits to the City Treasurer as provided in this section shall operate as a satisfaction of the judgment therefor and the lien on the land charged therewith.

Sec. 18. Additional Remedies—Laws of the State—City to Proceed to Grade, When.—In addition to the method hereinbefore provided in this Article for ascertaining the damages, if any, arising from proposed grading or re-grading of any street, avenue, alley or public highway, or part thereof, whenever the city shall deem it necessary, and by ordinance so determine, it may adopt the same procedure for ascertaining the damages caused by such grading or re-grading as is prescribed in the general laws of the State for the appropriation and valuation of lands taken for telegraph, telephone, gravel and plank or railroad purposes, being Chapter 12 of Article VII of the Revised Statutes of Missouri of 1899. Upon paying to the clerk of the Circuit Court the amount of damages awarded, the city shall have the right to proceed with such grading or re-grading, notwithstanding the filing of exceptions to such award, and any subsequent proceedings shall only affect the amount of compensation to be paid.

ARTICLE VIII.

PUBLIC IMPROVEMENTS.

Section.

1. Public Improvements—Power to Make—Pay For.
2. Improvements—Let by Contract—Lowest Bidder—Repairs by Days Work—Materials—Competition—Board May Reject Bids.
3. Improvements and Repairs—Resolution of Board of Public Works—What it Shall State—Hearing, Notice of—Property Owners to Present Views—Paving—Remonstrance—Findings and Declarations of Common Council, Effect of—Improvements Arrested, Proceedings—Advertising for Bids—Contract Confirmed by Ordinance—Board May Rescind Before Confirmation of Contract—Completion of Work—Time Extended—When Cost Paid by Special Tax Bills—Assessment, How Made—Grading, Cost, How Apportioned—Tax Bills Against Corner Lots—Contracts For Different Kinds of Work.
4. Improvements—Board to Determine When Completed in Accordance With Terms of Contract—Acceptance of—Payment by Tax Bills.
5. Sewer System—Divided Into Four Classes.
6. Public Sewers—Establishment and Construction of—Cost of, How Paid—Bed of Natural Stream Reclaimed—Land Assessed for Special Benefits—Apportionment of Fund.
7. District Sewers—Change of District—Construction of—Computation of Cost of—Cost Apportioned—Payment by Special Tax Bills—City's Liability Limited.
8. Joint Sewer Districts—Construction of—Cost of—Contract to

Section.

Specify What—Tax Bills.

9. Private Sewers—Constructed Under Regulations—Connected With Land Outside City—Cost of.
10. Septic Sewer Tanks—Cost of, How Paid—Drains to Protect Street Work.
11. Tax Bills—How Made Out and Certified.
12. Computations Required by This Article, Approved by Board of Public Works.
13. Improvements—Contract—Modification of.
14. Improvements—City May Make Without Contract—Procedure—Cost, How Assessed—May Sell Assessments of Tax Bill—City Authorized to Acquire Plant, Machinery, Etc.
15. Repairs—How Made—Cost of—How Assessed—Lien on Property—Assessments Delinquent—How Collected—Fund.
16. Driveway Portions of Streets, Etc.—Kept in Repair—Cost of How Paid.
17. Publication of Notice Required by Charter—How Made.
18. Sidewalks—Width of—Tree Planting Area—Territory Added to Corporate Limits.
19. Contracts for Improvements on Streets, Etc.—Lowest Bidder—Covenant to Pay Laborers and for Materials—Sureties—Suit on Contract, Limitation—Parties—Proceedings—Judgment—Distribution of Money Collected—Court.
20. Sureties on Bonds and Contracts.
21. Remonstrance of Property Owners—Board of Public Works Shall Determine Sufficiency of.

22. Tax Bills—Apportionment of to City Treasurer—To Contain What—Treasurer Shall Enter in Special Tax Record—Notice to Parties—Payment—How Received.
23. Special Tax Record—To Show What—Kept by Treasurer—Special Assessments Considered Special Taxes—A Lien—Treasurer to Furnish List of Special Tax Bills—Failure to Comply With This and the Next Preceding Section.
24. Tax Bills—Payment—Cancellation—Lien—Suit on—Parties—Unknown Owner or Non-Resident, Etc.—Pleading—Evidence—Special Judgment—Jurisdiction of Court—Sale—Execution—Certificate of Purchase—Redemption—Deed—Proceedings to Conform to, What—Certificate of Purchase, When Filed for Record—Contribution When Owner of Undivided Interest Compelled to Pay More Than he Ought.
25. Tax Bills Mentioned in Section 3 of This Article, Payable In Installments—How Collected—To Bear Interest, When—One Installment Delinquent, all Become Due—Lien of, Assignable.
26. Land Owned By City—Tax Bills—Suit—Personal Judgment—Land Held by Corporation or Association—Tax Bill—When Sale of Land Contrary to Public Policy, Suit—Personal Judgment.
27. Lien for Improvements, Invalid by Reason of Irregularities, Etc.—Re-assessment.
28. Grading, Etc.—When too Heavy Burden on Benefit District, as Limited in Section 3 of This Article—Benefit Limits May be Determined by Ordinance—Public Works Shall be Provided for by Ordinance—Proceedings in Circuit Court Against Owners—Petition to Contain, What—Process—What Parties May Offer in Evidence—Trial—Judgment—Appeal—What Court Shall Determine—No Appeal, or After Determination of, City May Enter Into Contract, Etc.—Meaning and Intent of This Section.

Section 1. Public Improvements—Power to Make—Pay For.—The city shall have power to acquire and cause to be made all public improvements designated in this Article, to pay therefor, in whole or in part, out of the general fund, or in whole or in part by special assessments, and to make and levy, assess and collect special assessments to pay therefor, and to issue special tax bills to evidence such assessments.

See note to Section 3 and Section 24.

The right to levy taxes, either general or special, is vested primarily in Legislature, may be, and generally is, delegated to Legislative body of municipality. Only subject of inquiry is whether municipality acted within its powers. (Kansas City Grading Co. vs Holden, 107 Mo. 305.)

Distinction between assessment of benefits against property in condemnation proceedings and for local improvements. (St. Louis vs Buss, 159 Mo. 9, l. c. 12; Eyssell vs St. Louis, 168 Mo. 607, l. c. 621; St. Louis vs Lawton, 189 Mo. 474, l. c. 484; St.

Louis vs Brinckwirth, 204 Mo. 280; Keith vs Bingham, 100 Mo. 300.)

Special taxation is sustainable under the taxing power. (Keith vs Bingham, 100 Mo. 300; Springfield vs Baker, 56 Mo. App. 637; Heman Construction Co. vs Railroad, 206 Mo. 172; Meier vs St. Louis, 180 Mo. 391.)

State Constitutional provisions on taxation do not apply to special taxation. (Meier vs St. Louis, 180 Mo. 391, l. c. 408; Farrar vs St. Louis, 80 Mo. 379; St. Joseph vs Owen, 110 Mo. 445; Adams vs Lindell, 5 Mo. App. 197, s. c. 72 Mo. 198; Heman Construc-

tion Co. vs Wabash Ry. Co., 206 Mo. 172; Paving Co. vs St. Joseph, 183 Mo. 451.)

Special assessments are not special taxes within meaning of Sec. 11, Art. X, of State Constitution. (Lamar W. & E. L. Co. vs Lamar, 128 Mo. 188; Farrar vs St. Louis, 80 Mo. 379.)

Exemption from general taxation is not an exemption from special assessment. (Sheehan vs Hospital, 50 Mo. 155; City of Clinton vs Henry County, 115 Mo. 557; Exposition Driving Park vs Kansas City, 174 Mo. 425, l. c. 443; State ex rel. vs Kansas City, 89 Mo. 34; Corrigan vs Kansas City, 211 Mo. 608; St. Louis vs Decatur, 147 U. S. 190; state ex rel vs Linn Co. Court, 44 Mo. 504.)

Church property is subject to special assessment. (Lockwood vs St. Louis, 24 Mo. 20.)

So is railroad property. (Heman Construction Co. vs R. R., 206 Mo. 172; Laws 1907, pp. 92-93. R. S. 1909, Sec. 9543.) But omission from assessment does not invalidate other assessments. (Kansas City vs Bacon, 147 Mo. 259; Corrigan vs Kansas City, 211 Mo. 608. Park Maintenance Tax.)

City cannot enter into an agreement that property shall be exempt from general taxes or special assessments. (Vrana vs St. Louis, 164 Mo. 146; Racilffe vs Duncan, 130 Mo. App. 695.)

Property held for public use is not subject to special tax. (St. Louis vs Brown, 155 Mo. 545; Barber Asphalt Paving Co. vs St. Joseph, 183 Mo. 451.)

If the city invokes the power of eminent domain unlawfully in making improvements, it can be held accountable; but tax bills for improvements made under the taxing power cannot be attacked on this ground. (Keith vs Bingham, 100 Mo. 300.)

Validity of front foot and area district rule is settled beyond question. (Paving Co. vs Peck, 186 Mo. 506; Paving Co. vs Munn, 185 Mo. 552; French vs Barber Asphalt Paving Co., 181 U. S. 394, affirming s. c. 158 Mo. 534; Heman vs Gilliam, 171 Mo. 258; Farrar vs St. Louis, 80 Mo. 379; Collier Estate vs Paving Co., 180 Mo. 362; Prior vs Construction Co., 170 Mo. 439; St. Joseph vs Farrell, 106 Mo. 437; Naylor vs Harrisonville, 207 Mo. 341.)

U. S. Constitution as affecting special assessments. (French vs Barber, 181 U. S. 394, affirming s. c. 158 Mo. 534; Norwood vs Baker, 172 U. S. 269.)

Fact that person outside district may receive benefits equal to those who are assessed does not affect validity of assessment of latter. (Kansas City Grading Co. vs Holden, 107 Mo. 305.)

Sec. 2. Improvements—Let by Contract—Lowest Bidder—Repairs by Day's Work.—All ordinances and contracts for all work authorized to be done by this Article shall specify how the same is to be paid for, and in case payment is to be made to the contractor in special tax bills, the city shall in no event, nor in any manner, be liable for or on account of the work. All city improvements of whatever kind or character, made or to be constructed at the expense of the city, including all work to be paid for in special tax bills, except as in this Charter provided otherwise, shall be let by contract to the lowest and best bidder; Provided, however, That nothing in this section shall be so construed as to prevent repair by day's work of streets, alleys and other public places, curbing, sewers, culverts, buildings or other city property so far as may be necessary under the direction of the Board of Public Works.

Materials—Competition.—Board May Reject Bids.—In specifying the character of the materials for or mode of construction of the pavements or roadways, or the construction of curbing or sidewalks, the city shall not limit the materials to be used to those taken from any specific place, mine or quarry, or the material of any particular owner or manufacturer, or to any patented process or material, but the Board of Public Works may arrange plans and specifications for bids in such manner as to permit any such materials to enter into competition, and any contract made with the lowest and best bidder under such plans and specifications, if confirmed by ordinance, shall be valid.

The Board may reject any and all bids.

See note to Section 3 and Section 24.

Liability of City For Work.—In absence of above provision, city would be liable as guarantor of special tax bills. (*Oster vs Jefferson City*, 57 Mo. App. 485; *Fisher vs St. Louis*, 44 Mo. App. 482; *Ash vs Independence*, 79 Mo. App. 70.)

City not liable when tax bills are invalid. (*Ely vs St. Louis*, 181 Mo. 723. l. c. 730; *Keating vs Kansas City*, 84 Mo. 415; *Saxton vs St. Joseph*, 60 Mo. 153; *Carroll vs St. Louis*, 4 Mo. App. 191.)

City not liable to tax bill owners for errors in tax bills. Nor is city engineer, when he acts in good faith. *St. Joseph vs McCabe*, 58 Mo. App. 542; *Schooler vs Arrington*, 106 Mo. App. 607.)

City not liable when city officer refuses to issue tax bills. (*Kiley vs St. Joseph*, 67 Mo. 491.)

No duty on city to collect tax bill. It discharges its whole duty when it makes assessment of tax bills. (*Thornton vs City of Clinton*, 148 Mo. 648.)

But city liable when contractor prevented by city's act or default from

completing contract. (*Chambers vs St. Joseph*, 33 Mo. App. 536; *Murray vs K. C.*, 47 Mo. App. 105; *Steffen vs St. Louis*, 135 Mo. 44.)

City not liable to contractor for extra work caused by mistake of city engineer. (*Burke vs Kansas City*, 34 Mo. App. 570; *Wilson vs St. Joseph*, 125 Mo. App. 460.)

But city may be liable for extra work agreed upon by street commissioner and accepted by city. (*Heman vs St. Louis*, 213 Mo. 538.)

City cannot, unless authorized by contract, maintain suit for use and benefit of owners of lots abutting on street against contractor for damages to property owners caused by breach of contract to improve street. (*Heman vs St. Louis*, 213 Mo. 538.)

Lowest and best bidder, see note to Section 3.

Repairs—*Heman vs St. Louis*, 213 Mo. 538.

Specifying materials, monopoly, patent, etc., fully discussed in *Curtice vs Schmidt*, 202 Mo. 703. See note to Sec. 3.

Sec. 3. Improvements and Repairs—Resolution of Board of Public Works—What it Shall State.—All proceedings to improve streets, avenues, alleys, sidewalks and public highways of every character, and parts thereof, within the city, by grading, re-grading the same, paving or re-paving the same, with any material, macadamizing or re-macadamizing or oiling the same, constructing or reconstructing the same, curbing or

re-curbings the same, guttering or re-guttering the same, or repairing the same, constructing bridges, viaducts, tunnels, subways or cuts on or along or under the same and the maintenance and repair of any or all of such improvements during a stated term of years, and by sodding, re-sodding and the planting or re-planting of trees and maintaining them for a term of years along the same, or along any part thereof, excepting boulevards under park commissioners, or a proceeding for constructing or reconstructing public, district or joint district sewers, shall be begun by the adoption of a resolution by the Board of Public Works, which resolution shall state the nature of the improvement and when the same is to be paid for in whole or in part in special tax bills, the method of making assessments to pay therefor.

Hearing, Notice of.—After the adoption of any such resolution the Board of Public Works shall, by order, fix a day upon which a hearing in respect to such improvement shall be had, which day shall be within thirty days after the date when such order is made, and shall cause to be published for ten days in the newspaper at the time doing the city printing, and if there be no such paper, then in any other newspaper published in the city, a notice directed to the property owners interested in the improvement without naming them, which notice shall recite the substance of the resolution and that a hearing will be had by the said board at their office concerning the proposed improvement, and the date upon which the hearing shall be had.

Property Owners to Present Views—Paving.—On the date fixed for such hearing any and all property owners interested in such improvement may, by written petition, or otherwise, present their views in respect to the proposed improvement to the said board, and the said board may adjourn the hearing from time to time. After such hearing, if the said board shall determine that it is not for the public interest that the proposed improvement, or a part thereof, be made and paid for, either out of the general fund or by any method of assessment, they shall make an order to that effect, and thereupon the proceeding for the improvement, or part thereof determined against by such order, shall stop and shall not be begun again until the adoption of a new resolution.

Remonstrance.—In case the improvement or part thereof consists of paving or re-paving, macadamizing or re-macadam-

izing the roadway of a street, avenue, alley or part thereof, which shall not have been found and declared to be used and occupied for business purposes, as hereinafter specified, and the resident owners of the city owning a majority of the front feet of all the lands belonging to such residents and fronting on the street, avenue, alley or part thereof to be paved or macadamized, shall file with the said board, on or before the day fixed for such hearing, a remonstrance against such paving or macadamizing, the power of the board to make the improvement shall cease for the period of six months from the date of the filing of such remonstrance, after the lapse of which period the proceeding may be begun by the adoption of a new resolution.

Findings and Declarations of Common Council, Effect of.—In case the proposed improvement consists of paving or repaving, macadamizing or re-macadamizing as aforesaid, then, in that event, upon the unanimous recommendation of the Board of Public Works, if each house of the Common Council shall, by ordinance, find and declare by a vote of two-thirds of the members-elect of each house that the street, avenue, alley, public highway, or part thereof, on which the proposed improvement is to be made is used or occupied for business purposes, and that the improvement has been unanimously recommended by the Board of Public Works, such finding and declaration shall be final and conclusive for all purposes, and no special tax bills that may be issued to pay for the work shall be held invalid or affected for the reason that the work for which they may have been issued was not unanimously recommended by the Board of Public Works, or that such street, avenue, alley, public highway or part thereof was not in fact used or occupied for business purposes, and the improvement shall proceed regardless of any remonstrance.

Improvements Arrested, Proceedings.—After the expiration of the respective periods during which an improvement may be arrested, as aforesaid, a proceeding may be begun and carried forward for the improvement so determined against or remonstrated against as though no former proceedings had been begun. If no such determination against the improvement is made, or if only a part of the proposed improvement be determined against by said board, the said board shall adopt and perfect plans and specifications for the proposed improvement not determined against, and

for an improvement of the same general nature, including, as they deem proper, provisions for the maintenance thereof for a stated period, and in case a macadam or gravel street roadway pavement is provided for, there may be included as an essential part of maintenance thereof specifications for the rolling and oiling of such pavement at intervals during a stated period.

Advertising for Bids—Contract Confirmed by Ordinance.—After the passing of such resolution and the adoption of such plans and specifications, the Board of Public Works shall advertise for bids for the doing of the work by publication for not less than five days, and shall let the contract to the lowest and best bidder therefor, and shall cause the contract so let to be formally executed by the contractor and by said board on behalf of the city, and the same, before it shall be binding and effective, shall be ratified, approved and confirmed by an ordinance of the said city, as hereinafter specified, and when so ratified, approved and confirmed shall in all respects be considered and held to have been authorized by the city.

Board May Rescind Before Confirmation of Contract—Completion of Work—Time Extended.—The Board of Public Works, at any time before any contract is so ratified, approved and confirmed, may rescind by an order entered on the records of said board, the action of said board in signing said contract in behalf of the city, and thereupon all proceedings had in relation to such proposed improvement shall be null and void. The city shall have power, by ordinance, for any good cause, to extend the time of the beginning or of the completion of the work under any such contract, and an ordinance of the city purporting to extend the time therefor shall be conclusive evidence of the existence of good cause for such extension. But all such ordinances for extensions must have endorsed thereon the approval of the Board of Public Works; and said board shall not endorse said approval until the City Engineer shall file with said board his verified certificate stating the reasons for granting such extension, and that said extension is made in good faith for the reason therein specified, and for none other.

When Cost Paid by Special Tax Bills.—The ordinance ratifying, approving and confirming the contract as above provided for shall also provide for and authorize the im-

provement, and shall state the nature of the improvement, and this may be done by a reference to the plans and specifications therefor, and such ordinance shall state how the cost thereof shall be paid; that is, whether the cost thereof is to be paid by the issuance of special tax bills, or out of the general fund, or whether by one method or the other, in whole or in part, and if by the issuance of special tax bills, how the assessments therefor shall be made and levied. The said board shall endorse their approval on the ordinance. The Common Council may amend such ordinance by altering the limits of a proposed benefit district in all cases where the dimensions and boundaries of such district are not specifically defined by this Charter, but may not make any other amendment, and shall pass or reject the same.

Assessment, How Made.—When the cost of the whole or any part of the improvement referred to in this section is to be paid by special tax bills evidencing assessments against lands, such assessments shall be made, levied and assessed according to one of the methods in this Article prescribed. Such method shall be specified in the resolution of the Board of Public Works and also in the ordinance confirming the contract for doing the work. In making assessments to pay for work other than for grading or re-grading, and other than for constructing district sewers and joint district sewers, the Board of Public Works shall compute the cost thereof and apportion the same among the several tracts or parcels of land to be charged therewith, and charge each lot or parcel of land with its proper share of such cost according to the frontage of such land on the street, avenue, alley or highway, or part thereof, named in the contract for the doing of the work. In making assessments for special tax bills to pay for grading or re-grading any street, sidewalk, avenue, or public highway, or part thereof, the City Assessor shall, on demand of the Board of Public Works, cause an assessment to be made of the value of all the lands to be charged with the cost of such grading or re-grading, exclusive of the improvements thereon, and shall deliver such assessment to the Board of Public Works, who shall compute the cost of such grading or re-grading and apportion such cost among the several lots or parcels of land to be charged, according to the value thereof, fixed by the City Assessor as aforesaid, and charge each lot or parcel of land with its proper share of such cost.

Grading, Cost, How Apportioned.—When the work of grading or regrading streets, avenues or public highways is to be paid for in special tax bills, the cost shall be apportioned and paid as follows: The cost of all grading, including the grading of sidewalks, shall be charged as a special tax on all lands on both sides of the street, avenue or public highway, or part thereof, graded, within the following limits, viz.: In case the land fronting on the street, avenue or public highway, or part thereof, graded, be laid off in lots or blocks, property so laid off from the line of the street, avenue or public highway, or part thereof, graded, back to the center line of the block or blocks, shall be so charged, whether fronting on the street, avenue or public highway or not; nevertheless, the Common Council shall have power by ordinance to prescribe that such lands shall not be charged beyond the alleys in such blocks, if deemed just and equitable, and in case any land fronting on such street, avenue or public highway, or part thereof, graded, be not laid off into lots or blocks, then the land not so laid off, and the land in the rear thereof on the line of the street, avenue or public highway, or part thereof, graded, back one hundred and fifty feet, shall be so charged, whether fronting on the street or not; and land liable for such grading shall be charged according to the value thereof, exclusive of improvements thereon, as herein provided; and in case of question on the part of the assessor or Board of Public Works as to whether any lands fronting on the street, avenue or public highway, or part thereof, be laid off into lots or blocks, or not, within the meaning of this section, the common council shall, on the request of the assessor or Board of Public Works, in making out special tax bills and charging the lands for such grading, determine whether or not any particular land or lands fronting on the street, avenue, public highway, or part thereof, graded, to be laid off or not into lots or blocks within the meaning of this section, and such determination shall be conclusive on all parties interested for all purposes. The cost of all work on any sidewalk, including curbing and guttering along the side thereof, exclusive of the grading of the same, shall be charged as a special tax upon the adjoining lands according to the frontage thereof on the sidewalk. The cost of all work mentioned in this section of this article done on spaces fronting on any other street, avenue, alley or public highway, shall be deemed part of the costs of work done on other spaces under the same ordinance and contract, and be charged and paid for accordingly.

Tax Bills Against Corner Lots—Contracts for Different Kinds of Work.—In making out special tax bills against corner lots for work on sidewalks, other than grading, and for work of curbing, they shall be charged for work on both fronts and on the outside corners. A single contract may be let and entered into to do various kinds of work when payment is to be made therefor in special tax bills, and when any kind of work shall be fully completed, tax bills therefor may be issued; but in case of a general contract for repairs, as provided in Section 16 of this Article, tax bills may be issued from time to time as separate jobs of repairing may be done.

See note to Section 24.

What Work May Be Done.—City, when authorized, may pave streets at expense of abutting property. (*St. Joseph vs Anthony*, 30 Mo. 537; *St. Joseph vs O'Donoghue*, 31 Mo. 345; *Palmyra vs Morton*, 25 Mo. 593.)

Meaning of word "pave." (*Ross vs Gates*, 183 Mo. 338; *Farrar vs St. Louis*, 80 Mo. 379.)

Power to pave includes power to repave. (*Morley vs Carpenter*, 22 Mo. App. 640.)

Meaning of "construct." (*Farrar vs St. Louis*, 80 Mo. 379.)

Power to improve streets at cost of property owner is a continuing power. (*McCormack vs Patchin*, 53 Mo. 33; *Thurston vs St. Joseph*, 51 Mo. 510; *Hoffman vs St. Louis*, 15 Mo. 651; *Smith vs Tobener*, 32 Mo. App. 601; *Morrow vs Kansas City*, 186 Mo. 675, 1. c. 689.)

Maintenance when same as repairs. (*Verdin vs St. Louis*, 131 Mo. 26.)

Obligation to repair is not obligation to construct new pavement. (*State ex rel. vs Corrigan*, 85 Mo. 263.)

Difference between reconstruction and repairs. (*Farrell vs Rammekamp*, 64 Mo. App. 425; *Ratterskamp vs Stifel*, 59 Mo. App. 510; *Ruggles vs Collier*, 43 Mo. 353.)

The word "street" means public street. It does not mean private way. (*Collier Estate vs Paving Co.*, 180 Mo. 362.)

No power given to construct work outside of city. (*Stealey vs Kansas City*, 179 Mo. 400, 1. c. 404.)

City cannot lay a special tax against abutting property for the purpose of

paying for sprinkling street, and a contract for both paving and sprinkling is ultra-vires; also tax bills issued against abutting property for sprinkling streets are void. (*Kansas City vs O'Connor, et al.*, 82 Mo. App., 655; *New York Life Insurance Co. vs Prist*, 71 Fed. 815.)

Necessity for improvement is a legislative not a judicial question. (*Heman vs Franklin*, 99 Mo. App. 346; *Skinker vs Heman*, 148 Mo. 349; *Heman vs Schulte*, 166 Mo. 409; *Heman vs Ring*, 85 Mo. App. 231; *Akers vs Kolkmeier*, 97 Mo. App. 520.)

City in its discretion may provide for improvement of whole or parts of streets as it sees fit. (*Moran vs Lindell*, 52 Mo. 229; *Stifel vs McManus*, 74 Mo. App. 558; *Springfield vs Weaver*, 137 Mo. 650; *Ely vs St. Louis*, 181 Mo. 723; *Ruppenthal vs St. Louis*, 190 Mo. 213; *Dinsmore vs St. Louis*, 192 Mo. 255.)

By Resolution and its publication jurisdiction of subject matter and of parties interested is acquired. (*Springfield vs Weaver*, 137 Mo. 650.)

Sufficiency of resolution. (*Kansas City vs Askew*, 105 Mo. App. 84; *Smith vs City of Westport*, 105 Mo. App. 221; *City of Kirksville vs Coleman*, 103 Mo. App. 215.)

Publication need not be on ten consecutive days. (*Roth vs Forsee*, 107 Mo. App. 471.)

Publication of notice and proof of publication, see note to Article XVIII, Section 13.

Remonstrance.—See Section 21.

Provisions of Charter confining right of petition and remonstrance to resident property owners not unconstitutional as a discrimination against non-residents. (*Buchan vs Broadwell*, 88 Mo. 31.)

Bona fide resident owners are intended, and not grantees receiving title for purpose of effecting or defeating improvements. (*Forbis vs Bradbury*, 58 Mo. App. 506.)

Publication of resolution is in nature of notice to property holders and is required for purpose of affording them an opportunity to appear before Council and interpose objections. (*Barber Asphalt Paving Co. vs Muchenberger*, 105 Mo. App. 47. l. c. 50.)

Council does not acquire jurisdiction until expiration of ten days. Remonstrance may be impeached by evidence controverting ownership and authority of subscribers thereto. Remonstrant may withdraw name by filing letter with clerk. Signature of administrator of an estate to remonstrance is not signature of owner. Where title to property affected stands in name of partnership party whose name alone appeared in title can be counted. Officers of corporation cannot file remonstrance unless specially authorized by Board of Directors. (*City of Sedalia vs Montgomery*, 109 Mo. App. 197.)

Remonstrance, sufficiency, withdrawal. (*City of Sedalia vs Scott*, 104 Mo. App. 595.)

Tax bills for work done in disregard of remonstrance are void. (*Forbis vs Bradbury*, 58 Mo. App. 506; *Sedalia vs Scott*, 104 Mo. App. 595.)

Conclusiveness of finding and declaration of Council. (*Dennison vs Kansas City*, 95 Mo. 416; *Buchan vs Broadwell*, 88 Mo. 31; *Adkins vs Railroad*, 36 Mo. App. 652; *Smith vs Tobener*, 32 Mo. App. 601; *Fruin-Bambrick Co. vs Geist*, 37 Mo. App. 509; *Barber Asphalt Co. vs Muchenberger*, 105 Mo. App. 47.)

Injunction to prevent action contrary to remonstrance. (*Dennison vs Kansas City*, 95 Mo. 416.)

Duty of Property owner to make objections where he sees improvements being made. (*Jaicks vs Merrill*, 201 Mo. 91.)

Property owners cannot by remonstrance prevent construction of side-

walks. (*Huling vs Bandera Flagstone Co.*, 87 Mo. App. 349.)

Repairing sidewalk without notice to property owner. (*Kansas City vs Huling*, 87 Mo. 203.)

Jurisdiction acquired by board is to proceed in usual course and it has no authority to abandon improvement and after so long a time resume jurisdiction where it was left off. (*Marshall ex rel. vs Wisdom*, 127 Mo. App. 640.)

Publication of advertisement and proof of publication, see note to Article XVIII, Section 13.

Specifications must be prepared and completed when ordinance is adopted, otherwise tax bills issued for the work will be void. (*Dickey vs Holmes*, 109 Mo. App. 721, l. c. 725, and cases cited. *McCormick vs Moore*, 134 Mo. App. 669.)

Where specifications are before Council, fact that they are not filed will not invalidate tax bills. (*Bridewell vs Cockrell*, 122 Mo. App. 196. But see *Paving Co. vs O'Brien*, 128 Mo. App. 267, to contrary.)

Profile or specifications of work to be done not necessary, when. (*Sheehan vs Owen*, 82 Mo. 458; See *Jaicks vs Merrill*, 201 Mo. 91.)

Defective specifications. (*Excelsior Springs vs Ettenson* 120 Mo. App. 215.)

Engineer cannot delegate authority to prepare plans and specifications to prospective bidder. (*Paving Co. vs O'Brien*, 128 Mo. App. 267.)

Bids.—It is imperative that there should be opportunity for competition. (*State ex rel. vs Smith*, 177 Mo. 69, l. c. 86; *Paving Co. vs Field*, 188 Mo. 182 and cases cited; *Curtice vs Schmidt*, 202 Mo. 703, l. c. 720 et seq. *McQuiddy vs Brannock*, 70 Mo. App. 535; *Schoenberg vs Field*, 95 Mo. App. 241, l. c. 249 et seq.; *Dickey vs Holmes*, 109 Mo. App. 721; *Excelsior Springs vs Ettenson*, 120 Mo. App. 215, l. c. 224.)

Notice of bids, when required. (*Galbreath vs Newton*, 45 Mo. App. 312, s. c. 30 Mo. App. 380; *Saxton Nat'l Bank vs Carswell*, 126 Mo. 436; *Keane vs Cushing*, 15 Mo. App. 96.)

Essential to validity of tax bills, when. (*Kiley vs Oppenheimer*, 55 Mo. 374.)

Notice of public letting mandatory when required by ordinance. (*Clapton vs Taylor*, 49 Mo. App. 117.)

Advertisement for bids, sufficiency

of. (*Morley vs Weakley*, 86 Mo. 451; *Keane vs Klausman*, 21 Mo. App. 485; *City of Louisiana vs Shaffner*, 104 Mo. App. 101.)

Notice not defective because first publication is on Sunday. (*Roth vs Hax*, 68 Mo. App. 283); or last day on Sunday and no publication on day of letting. (*Clapton vs Taylor*, 49 Mo. App. 117; *Curtice vs Schmidt*, 202 Mo. 703, 1. c. 714; *B. A. Paving Co. vs Muchenberger*, 105 Mo. App. 47; *St. Joseph vs Landis*, 54 Mo. App. 315.)

Proof of publication of notice. (*Nevada to use vs Morris*, 43 Mo. App. 586.)

At common law newspaper does not prove itself. (*Ross vs Gates*, 117 Mo. App. 237.)

Fact that there was only one bid does not invalidate contract. (*Paving Co. vs Hezel*, 76 Mo. App. 135, 1. c. 152.)

Lowest bidder not uncertain, because contractor is required to do such extra work resulting from unforeseen circumstances as city official may direct at price fixed by official. (*Allen vs Rogers*, 20 Mo. App. 290.)

Discretion in selecting lowest bidder. (*Bank vs Woestein*, 147 Mo. 467; *Clapton vs Taylor*, 49 Mo. App. 117; *Barber Asphalt Paving Co. vs Hezel*, 76 Mo. App. 135, 1. c. 152.)

Lowest and best bidder, determination of city authorities conclusive in absence of fraud or bad faith. (*Clapton vs Taylor*, 49 Mo. App. 117; *State ex rel. vs McGrath*, 91 Mo. 386; *Bank vs Woestein*, 147 Mo. 467.)

If lowest bidder declines to enter into contract, City may readvertise for bids. (*City of Lexington vs Bank*, 130 Mo. App. 687.)

Or contract may be awarded to next lowest bidder without readvertising for bids. (*Gibson vs Owens*, 115 Mo. 258.)

But if awarded to next lowest bidder at different prices than those contained in his bid, the tax bills will be void. (*Guinotte vs Egelhoff*, 64 Mo. App. 356.)

After work has been completed, cannot be objected, that same was not let to lowest bidder. (*Johnson vs Duer*, 115 Mo. 366; *Bank vs Woesten*, 147 Mo. 467, 1. c. 483.)

Contractor before making bid cannot agree with certain property own-

ers to take less for work for which their property is liable without violating tax bills issued against other owners, but he may after tax bills are issued, settle them for less than their face. (*Kurtz vs Knapp*, 127 Mo. App. 608.)

What sufficient evidence of acceptance of bid. (*City of Joplin vs Freeman*, 125 Mo. App. 717.)

Municipality not liable for damages for refusing to accept bid. (*Coquard vs School District*, 46 Mo. App. 6.)

Mistake in bid, withdrawal of bid. (*Moffett vs City of Rochester*, 173 U. S. 373.)

Contents of lost written bid shown by parol evidence. (*Morley vs Weakley*, 86 Mo. 451.)

Contract cannot be awarded before expiration of time required for advertising. (*Kiley vs Oppenheimer*, 55 Mo. 374.)

Authority to advertise for bids does not begin until resolution or ordinance, providing for work goes into effect. (*Cushing vs Russell*, 134 Mo. App. 650.)

But see *Smith vs City of Westport*, 105 Mo. App. 221, 1. c. 224, 225.

Notwithstanding competition in letting contracts is required, yet if there is patented article or article in hands of one person or company which is necessary for public improvement and no one else has same general character of material which could be brought into competition, city is not forced to use other clearly inferior material.

(*Curtice vs Schmidt*, 202 Mo. 703, 1. c. 725; *Barber Asphalt Paving Co., vs Hunt*, 100 Mo. 22; *Verdin vs St. Louis*, 131 Mo. 26; *Swift vs St. Louis*, 180 Mo. 80; *Paving Co. vs Field*, 188 Mo. 182; *Construction Co. vs Coal Co.* 205 Mo. 49; *Taylor vs Schroeder*, 130 Mo. App. 483; *State ex rel. vs Smith*, 177 Mo. 69; *Field vs Paving Co.*, 194 U. S. 618.)

Selecting material for public improvements under former Charter. (*Shoenberg vs Field*, 95 App. 241; *Gilsonite Const. Co. vs Coal Co. et al*, 205 Mo. 49; *Curtice vs Schmidt*, 202 Mo. 703; *Barber Asphalt Paving Co. vs Field*, 188 Mo. 182.)

Under former Charter, Board of Public Works could make competitive bidding impossible. (*Barber Asphalt Paving Co. vs Field*, 188 Mo. 182; *Swift vs St. Louis*, 180 Mo. 80; *Barber*

Asphalt Paving Co. vs Hunt, 100 Mo. 22; **Field vs Barber Asphalt Paving Co.**, 194 U. S. 618.)

The Contract.—Validity of contract, ratification, estoppel, see notes to Article I, Section 1, Article III, Section 1.

City may impose provisions in contract relative to doing of work the same as a private person. (**St. Louis vs Von Phul**, 133 Mo. 561.)

Contract may provide that laborers are to work only eight hours per day. (**St. Louis Quarry Co. vs Frost**, 90 Mo. App. 677; **Curtice vs Schmidt**, 202 Mo. 703.)

And that all of work must be done in Missouri. (**Allen vs Labsap**, 188 Mo. 692.)

Contract may provide for such extra work as may be required, owing to unforeseen circumstances in executing the work according to contract and may provide that the price therefor shall be fixed by officer of city. (**Allen vs Rogers**, 20 Mo. App. 290; **Heman vs St. Louis**, 213 Mo. 538.)

And may contain terms for repairs with those of construction. (**Bank vs Woesten**, 147 Mo. 467; **Barber Asphalt Paving Co. vs Hezel**, 76 Mo. App. 135.)

And for maintenance. (**Bank vs Woesten**, 176 Mo. 49; **Paving Co. vs Munn**, 185 Mo. 552; **G. R. Asphalt Co. vs St. Louis**, 188 Mo. 576; **Allen vs Labsap**, 188 Mo. 692.)

Provision in paving contract to guarantee, maintain and keep in repair for period of five years, is valid. (**Barber Asphalt Paving Co. vs French**, 158 Mo. 534; **Barber Asphalt Paving Co. vs Munn**, 185 Mo. 552; **Seaboard Natl. Bank vs Woesten**, 147 Mo. 467; **Barber Asphalt Co. vs Ullman**, 137 Mo. 543; **Barber Asphalt Co. vs Hezel**, 155 Mo. 391; **Morse vs Westport**, 110 Mo. 502.)

Contract cannot be let for only portion of work ordered and for which bids are received. (**Trenton vs Collier**, 68 Mo. App. 483.)

Portion of work included in public contract cannot be let by private contract and remainder of cost assessed against property in front of which work is done under public contract. (**Childers vs Holmes**, 95 Mo. App. 154.)

Rule that contractor cannot enter into agreement with some property owners to take less than public contract price for their work does not prohibit contractor from accepting less

from abutting owner after tax bills are issued. (**Kurtz vs Knapp**, 127 Mo. App. 608.)

The fact that there were holes in the pavement before and after the acceptance of the work by the city engineer does not invalidate the tax bills issued for the paving, as the guaranty in the contract to keep pavement in repair for five years does not mean that pavement will endure without repair for that period. (**Gilsonite Const. Co. vs Coal Co.**, 205 Mo. 49.)

Repairs. (**Heman vs St. Louis**, 213 Mo. 538.)

Contract awarded should accord with the ordinance (Former Charter,) and advertisement for bids, and work should conform to contract. (**Galbreath vs Newton**, 30 Mo. App. 380; **Construction Co. vs Coal Co.**, 205 Mo. 49, l. c. 68; **City of Sedalia vs Abell**, 103 Mo. App. 431, l. c. 437; **Kansas City vs Askew**, 105 Mo. App. 84; **Dickey vs Holmes**, 109 Mo. App. 721; **Turner vs City of Springfield**, 117 Mo. App. 418; **Excelsior Springs vs Ettenson**, 120 Mo. App. 215; **City of Marshall to use vs Wisdom**, 127 Mo. App. 640.)

Literal compliance with contract not essential to validity of tax bills. (**Rose vs Trestrall**, 62 Mo. App. 352; **Cole vs Skrainka**, 105 Mo. 303; s. c. 37 Mo. App. 427; **Heman vs Gerardi**, 96 Mo. App. 231; **City of Springfield vs Mills**, 99 Mo. App. 141, l. c. 145; **Barber Asphalt Co. vs Muchenberger**, 105 Mo. App. 47, l. c. 52; **Saxton Natl. Bank vs Haywood**, 62 Mo. App. 550; **St. Joseph to use vs Landis**, 54 Mo. App. 315; **Marionville vs Henson**, 65 Mo. App. 397; **Sheehan vs Owen**, 82 Mo. 458; **Steffen vs Fox**, 124 Mo. 630; **St. Joseph vs Anthony**, 30 Mo. 537; **King-Hill Brick Co. vs Hamilton**, 51 Mo. App. 120.)

See Galbreath vs Newton, 30 Mo. App. 380.

Fact that city is required to let contract to lowest bidder does not constitute city agent of owners of property abutting on street to sue for damages to them for breach of the contract. City does not act for them in letting contract. (**St. Louis vs Wright Contracting Co.**, 202 Mo. 451.)

City engineer cannot vary terms of contract. (**Burke vs Kansas City**, 34 Mo. App. 570; **Wilson vs St. Joseph**, 125 Mo. App. 460.)

City cannot annul contract for its own default. (*Murray vs Kansas City*, 47 Mo. App. 105; *Kemp vs School District*, 84 Mo. App. 680.)

Contract may be assigned, when. (*St. Louis to use vs Clemens*, 42 Mo. 69; *Gordon vs Jefferson City*, 111 Mo. App. 23; *Brick Terra Cotta Co. vs Hull*, 49 Mo. App. 433.)

Assignment of money due under contract is not assignment of contract. (*Dickey vs Porter*, 203 Mo. 1.)

Time.—Ordinance must follow resolution and letting in reasonable time. (*Marshall to use vs Wisdom*, 127 Mo. App. 640.)

Improvements must be completed within time required by ordinance or tax bills invalid. (*Barber Asphalt Paving Co. vs Munn*, 185 Mo. 552; *Barber Asphalt Paving Co. vs Ridge*, 169 Mo. 376; *Richter vs Merrill*, 84 Mo. App. 150; *Rose vs Trestrail*, 62 Mo. App. 352; *Childers vs Holmes*, 95 Mo. App. 154, 1. c. 158.)

And work must be completed within time limited by contract, or tax bills issued therefor are void. (*Winfrey vs Linger*, 89 Mo. App. 159; *Carlin vs Cavender*, 56 Mo. 286.)

Power to extend time cannot be delegated to engineer. (*Childers vs Holmes*, 95 Mo. App. 154.)

When ordinance does not specify time for completion of work, and time is fixed in contract, but with clause providing for the payment of a penalty at so much per day for failure to complete within that time, contractor has reasonable time in which to complete work. (*Heman vs Gilliam*, 171 Mo. 258; *Allen vs Labsap*, 188 Mo. 692; *Curtice vs Schmidt*, 202 Mo. 703; *Gilsonite Const. Co. vs Coal Co.*, et al., 205 Mo. 49.)

And it is for court to determine whether work was done within reasonable time. (*Gilsonite Const. Co. vs Coal Co.*, et al., 205 Mo. 49.)

Extending time. (*Bridewell vs Cockrell*, 122 Mo. App. 196; *Springfield ex rel. vs Schmook*, 120 Mo. App. 41.)

When time for completion of contract has expired Council cannot extend time by new ordinance. (*Gilsonite Const. Co. vs Coal Co.*, et al., 205 Mo. 49.)

When work is completed. (*Porter vs Paving Co.*, 214 Mo. 1.)

Ordinance.—(Under prior Charter,

public improvements were begun by common council instead of Board of Public Works.)

Under prior Charter contract for work must conform to ordinance.

Ordinance must state extent and dimensions of work and materials to be used, and these matters cannot be left by ordinance to city engineer. (*Haag vs Ward*, Rec. et al., 186 Mo. 325; *St. Louis to use vs Clemens*, 52 Mo. 133; *Heman Const. Co. vs Loevy*, 64 Mo. App. 430; *Ruggles vs Collier*, 43 Mo. 353; *St. Louis vs Clemens*, 43 Mo. 395; *State ex rel. vs St. Louis*, 56 Mo. 277; *St. Louis vs Schoenemann*, 52 Mo. 348; *Ramsey vs Field*, 115 Mo. App. 620.)

Ordinance authorizing sidewalk, five feet wide without locating it void. (*Municipal Securities Corporation vs Gates*, 130 Mo. App. 552; *Ramsey vs Field*, 115 Mo. App. 620.)

Provision that work shall be done under direction of City Engineer, is not delegation of authority to engineer. (*Gilsonite Const. Co. vs Coal Co.*, et al., 205 Mo. 49; *Sheehan vs Gleeson*, 46 Mo. 100; *Swift vs St. Louis*, 180 Mo. 80; *Moran vs Lindell*, 52 Mo. 229.)

It will be presumed that street is proper subject for municipal legislation; not essential that ordinance state that street is in Kansas City, (*Kansas City vs Block* 175 Mo. 433.)

Ordinance itself need not prescribe material and regulations for, and manner of doing the work if ordinance refers to plans and specifications which cover these particulars. (*Gilsonite Const. Co. vs Coal Co.*, et al., 205 Mo. 49; *Roth vs Hax*, 68 Mo. App. 283; *Becker vs City of Washington*, 94 Mo. 375; *Asphalt Co. vs Ullman*, 137 Mo. 543.)

Same principle applies to action of board. (*Swift vs St. Louis*, 180 Mo. 80.)

City engineer cannot authorize work done with different material than that specified in ordinance. (*Brick Co. vs Hamilton*, 51 Mo. App. 120; *Quest vs Johnson*, 58 Mo. App. 54.)

Property owner cannot complain where variance is made at his request. (*Brick & Terra Cotta Co. vs Hull*, 49 Mo. App. 433; *Hill-O'Meara Construction Co. vs Hutchinson*, 100 Mo. App. 294.)

When decision as to materials, etc., to be used in a part of the work only is improperly left to city engineer, tax bills for whole work will not be invalid unless it is affirmatively shown that the cost of that part of the work in question was included in the tax bills. (*Haag vs Ward*, Rec. et al., 186 Mo. 325.)

Void ordinance cannot be validated by ordinance enacted after completion of work. (*St. Louis vs Clemens*, 52 Mo. 133; *Dickey vs Holmes*, 109 Mo. App. 721.)

See note to Article 1, Section 1.

Unreasonableness of ordinance for public improvements. (*Corrigan vs Gage*, 68 Mo. 541; *Morse vs Westport*, 136 Mo. 276; *Kansas City to use vs Richards*, 34 Mo. App. 521.)

Impossibility of full performance is no excuse, ordinance should be repealed and new proceeding instituted. (*Excelsior Springs vs Eitenson*, 120 Mo. App. 215.)

Validity of ordinance for public improvements passed at special session. (*Dollar Savings Bank vs Ridge*, 183 Mo. 506.)

Ordinance confirming contract need not be signed by Mayor with his own hand, his name may be signed by another under his immediate direction. (*Porter vs Boyd Paving & Construction Co.*, 214 Mo. 1.)

Where property owner knew of passage of ordinance providing for sidewalk in front of his property and did not attack the proceeding until after contract was let and work completed, he is guilty of laches. (*Huling vs Bandera Flagstone Co.*, 87 Mo. App. 349; *Hill-O'Meara Construction Co. vs Hutchinson*, 100 Mo. App. 294.)

Apportionment of Cost of Improvements.—See Section 12.

Power to assess and validity of area and front foot rule, see note to Section 1.

Property owner not entitled to be heard before apportionment of cost of street improvement upon abutting lots. (*French vs Barber Asphalt Paving Co.*, 181 U. S. 324.)

Property owner not entitled to notice of assessment of abutting property for paving streets. (*Barber Asphalt Paving Co. vs. French*, 158 Mo. 534; *Corrigan vs Kansas City*, 211 Mo. 608.)

Entire work should be apportioned and not by blocks. (*Weber vs Schergens*, 59 Mo. 389; *St. Louis vs Clemens*, 49 Mo. 552; *Fowler vs St. Joseph*, 37 Mo. 228.)

Assessment must be made against each lot separately. (*Ross vs Gates*, 117 Mo. App. 237.)

A lot cannot be charged with cost of work done in front of it, but must bear its proportionate share of cost of whole work. (*Neenan vs Smith*, 50 Mo. 525; *Childers vs Holmes*, 95 Mo. App. 154, 1 c. 160.)

Where in building a sidewalk, it was necessary to build a retaining wall in front of certain lots, the whole cost of the wall should not be assessed against the adjoining property, but should be apportioned against all the property fronting on the sidewalk. (*Adams vs Green*, 74 Mo. App. 125.)

Property owner cannot escape assessment for grading or paving by having the improvements in front of his property made at his own expense. (*Smith vs Small*, 50 Mo. App. 401; *Independence vs Gates*, 110 Mo. 374; *Childers vs Holmes*, 95 Mo. App. 154.)

Land not fronting on street not liable for cost of grading same. (*Crane vs French*, 50 Mo. App. 367.)

Lot not fronting on portion of street paved cannot be charged for paving. (*Smith vs Small*, 50 Mo. App. 401; *Paving Co. vs Peck*, 186 Mo. 506, *Chillicothe ex rel. vs Henry*; *K. C. Ct. App.* 118 S. W. 486.)

"Front Foot" means "Abutting Foot." (*Moberly vs Hogan*, 131 Mo. 19.)

Street intersections. (*Chillicothe ex rel. vs Henry*; *K. C. Ct. App.* March 29, 1909, 118 S. W. 486; *Heman Cons. Co. vs McManus*, 102 Mo. App. 649.)

Sham sale of strip off front of lot will not prevent liability of lot for special assessments. (*Stifel vs Brown*, 24 Mo. App. 102.)

Term "Adjoining Lands" does not include portions sold off rear of lot. (*Clapton vs Taylor*, 49 Mo. App. 117.)

Abutting property should be assessed for its entire depth, but failure to do so, is no defence where same person owns entire tract. (*Forry vs Ridge*, 56 Mo. App. 615.)

Assessment of contiguous lots. (*Hill-O'Meara Co. vs Sessinghaus*, 106 Mo. App. 163; *Const. Co. vs Loevy*, 64 Mo.

App. 430; *Fowler vs St. Joseph*, 37 Mo. 228; *Hannibal vs Richards*, 35 Mo. App. 15; *Kemper vs King*, 11 Mo. App. 116; *Christian vs Taussig*, 8 Mo. App. 602.)

Computation and apportionment of cost is judicial in nature and cannot be made by city engineer without express authority by Board of Public Works. (*McQuiddy vs Vineyard*, 60 Mo. App. 610.)

It is unnecessary that the president of the board of public works personally compute, levy or assess the cost of public work. It is sufficient that he sign his name to the tax bill. Signing his name became the consummate act of computing, assessing and levying. (*Construction Co. vs Loevy*, 179 Mo. 455, 1. c. 466; *Jaicks vs Merrill*, 201 Mo. 91.)

When properly authorized, clerk may sign name of president of Board of Public Works to tax bills. (*Jaicks*

vs Merrill, 201 Mo. 91; *Dickey vs Porter*, 203 Mo. 1.)

City engineer may obtain measurements from assistant. (*Kefferstein vs Knox*, 56 Mo. 186.)

Right to apportion among abutting lot owners cost of work on railroad crossing. (*Bank vs Haywood*, 62 Mo. App. 550; *Hund vs Rackliffe*, 192 Mo. 312.)

Assessments for grading street held not invalid because dirt excavated was used to fill, and thereby improve another street, while property fronting thereon was not taxed. (*K. C. Grading Co. vs Holden*, 107 Mo. 305.)

Power to charge property for grading a street when same property has previously been assessed for grading, while other property on street to be graded was not assessed. (*Halpin vs Campbell*, 71 Mo. 493.)

Sec. 4. Improvements—Board to Determine When Completed in Accordance With Terms of Contract.—The Board of Public Works is invested with power to determine whether any improvement constructed under a contract with the city has been completed in accordance with the terms of the contract therefor, and to accept such improvement on the part of the city, and to determine the amount of the liquidated damages, if any, to be paid by the contractor in accordance with the terms of the contract therefor, for failure to comply with the contract, and to ascertain, in case the cost or part thereof is to be paid in special tax bills, the amount that each tract of land shall be assessed or charged for the payment of the cost of such work.

Acceptance of—Payment by Tax Bills.—The Board shall at the time of accepting any improvement on the part of the city, make an order or orders, by which they shall accept such improvement and determine the price thereof to be paid the contractor, and make and levy an assessment against the tracts of land, exclusive of improvements, to be assessed to pay therefor, the aggregate of which assessments shall equal the amount of the cost of such work to be paid in special tax bills; and said Board shall issue and deliver to the contractor, or to his assignee, tax bills to be dated the day when such tax bills and apportionment are certified to the City Treasurer in payment of the price of such improvement to be paid for by special tax bills.

See note Sec. 3 and Sec. 24.

vs Paving Co., 214 Mo. 1; *Hund vs Work* is completed when. (*Porter Rackliffe*, 192 Mo. 312, 1. c. 330.)

Sec. 5. Sewer System—Divided Into Four Classes.—The general sewer system of the city shall be divided into four classes, to-wit: Public, district, joint district and private sewers. The city may, by ordinance, find and determine the class to which any sewer belongs, and the finding and determination of the city in that respect shall be final and conclusive.

Validity of "area rule" for assessments. (*Farrar vs St. Louis*, 80 Mo. 379; *St. Joseph vs Farrell*, 106 Mo. 437; *Prior vs Const. Co.*, 170 Mo. 439; *Collier Est. vs Paving Co.*, 180 Mo. 362; *Johnson vs Duer*, 115 Mo. 366.)

Definition and purpose of sewers. (*Fuchs vs St. Louis*, 167 Mo. 620; 1 c. 636.)

Distinction between "public," "district," "joint district" and "private" sewers. (*South Highland Land Co. vs Kansas City*, 172 Mo. 523; *Prior vs Const. Co.*, 170 Mo. 439; *Hill vs Swingley*, 159 Mo. 45; *Eyerman vs Blaksley*, 78 Mo. 145.)

Difference between public and district sewer is not a mere difference in name and city cannot determine method of paying for sewer by denominating it a public sewer when it is a district sewer, or a district sewer when it is a public sewer. (*Hill vs Swingley*, 159 Mo. 45; *South Highland Land Co. vs Kansas City*, 172 Mo. 523.)

Public sewers cannot be constructed as district sewers to be paid for in tax bills. (*Heman vs Handlan*, 59 Mo. App. 490; *State ex rel. vs Wilder*, 217 Mo. 261.)

City may create a number of joint districts and later group these into a main joint district and levy the cost of sewers therein against land in the main joint district which had been previously taxed for a sewer in one of the first joint districts. (*South Highland Land Co. vs Kansas City*, 172 Mo. 523.)

Land that has once been taxed to build a district or joint district sewer cannot be taken out of the district and deprived of use of same. It cannot be placed in another similar district or joint district and subjected a second time to a like burden, nor can land which was not in the district or joint district when the sewer was built be added to the district or joint district and have a benefit for which it has

paid nothing. (*South Highland Land Co. vs Kansas City*, 172 Mo. 523.)

Under prior charter where ordinance provided for sewer for sanitary and drainage purposes and evidence showed that sewer was not for sanitary and drainage purposes, tax bills for its construction are void; and fact that subsequent to completion of the work, use is made of the sewer for drainage purposes, does not make the tax bills valid. (*Barton et al vs Kansas City, et al*, 110 Mo. App. 31; see *City of St. Joseph vs Owen*, 110 Mo. 445.)

Under prior charter, ordinance must prescribe dimensions, material and character of sewer, either in body of ordinance or by reference to plans and specifications. (*Dickey vs Holmes*, 109 Mo. App. 721; *Dickey vs Porter*, 203 Mo. 1; *McCormick vs Moore et al*, 134 Mo. App. 669.)

Ordinance may establish sewer district and at same time provide for constructing sewer therein. (*Eyerman vs Blaksley*, 78 Mo. 145.)

Question whether lot is benefited is legislative, not judicial question and in absence of fraud, judgment of council is conclusive. (*Prior vs Const. Co.*, 170 Mo. 439.)

Expediency of establishing district sewer not subject to collateral attack. (*Johnson vs Duer*, 115 Mo. 366.)

If drainage of sewer into creek will decrease market value of adjoining property, owner is entitled to compensation, which may be awarded in the suit to condemn right of way. (*Joplin Mining Co. vs Joplin*, 124 Mo. 129.)

Sewer must not be constructed so as to create nuisance. (*Edmondson vs Moberly*, 98 Mo. 523; *Schoen vs Kansas City*, 65 Mo. App. 134; *Arn vs Kansas City*, 14 Fed. Rep. 236.)

When impossible to state in advance the amount of masonry that will be needed in construction of sewer, the dimensions and quality of the masonry

need not be prescribed in advance. (*Dickey vs Porter*, 203 Mo. 1.)

Tax bills for sewers need not recite basis of apportionment. (*Dickey vs Porter*, 203 Mo. 1.)

When tax bills invalid because Board of Public Works failed to compute and apportion cost of sewer, the Board may afterwards make apportionment and computation and issue new tax bills which will be valid. (*Dollar Savings Bank vs Ridge*, 79 Mo. App. 26; *State ex rel vs St. Louis*, 183 Mo. 230; *State ex rel vs St. Louis*, 211 Mo. 591 l. c. 604; See Sec. 27.)

Power to enact ordinance requiring property owner to pay assessment before permitting him to connect with sewer. (*Hill vs St. Louis*, 159 Mo. 159.)

No defense to tax bill for sewer that property not affected by bill cannot be drained. (*Johnson vs Duer*, 115 Mo. 366.) Fact that part of sewer ran through private property, the owners of which had not consented thereto, did not relieve property owners from paying for that part that ran through public streets. (*Johnson vs Duer*, 115 Mo. 366.)

Assessment for sewer not void on ground that property against which tax is assessed cannot be reached by sewer pipes except by passing through intervening private property. (*Heman vs Schulte*, 166 Mo. 409.)

Liability of City Growing Out of Construction and Repair of Sewers.—City is liable for injuries occasioned by negligence in constructing sewer even though acting in violation of charter; laborers and superintendent of streets not fellow servants. (*Donahoe vs Kansas City*, 136 Mo. 657.)

Leaving man-hole above street level. (*Wheat vs St. Louis*, 179 Mo. 572.)

Keeping in repair. (*Gulath vs St. Louis*, 179 Mo. 38.)

Liable to person using street for unguarded excavation in street in constructing sewer. (*Welch vs St. Louis*, 73 Mo. 71.)

Liable to property owners for negligence of contractor in constructing sewer. (*Fink vs St. Louis*, 71 Mo. 52; *Thurston vs St. Joseph*, 51 Mo. 510.)

Liability for explosion of gas in sewer. (*Fuchs vs St. Louis*, 167 Mo. 620, overruling s. c. 133 Mo. 168.)

Liable for nuisances unnecessarily created by construction of sewer. (*Edmondson vs City of Moberly*, 98 Mo. 523; *Smith vs City of Sedalia*, 182 Mo. 1, s. c. 152 Mo., 283; *Frick vs Kansas City*, 117 Mo. App. 488; *Scott vs City of Nevada*, 56 Mo. App. 189; *Martinowsky vs City of Hannibal*, 35 Mo. App. 70.)

Negligent construction of sewer throwing water on lot. (*Thurston vs St. Joseph*, 51 Mo. 510.)

City not liable for damages by a rock thrown from sewer by blast made by contractor. (*Blumb vs City of Kansas*, 84 Mo. 112.)

Rule as to independent contractor. (See *McGrath vs St. Louis*, 215 Mo. 191.)

Failure to exercise power to construct sewers, gives no right of action to private parties. (*Woods vs Kansas City*, 58 Mo. App. 272.)

City not liable for injury to gas pipes, conduits, or railroad tracks in constructing sewers. (*Sedalia Gas Light Co. vs Mercer*, 48 Mo. App. 644; *National Water Works Co. vs Kansas City*, 20 Mo. App. 237, s. c. 28 Fed. Rep. 922.)

And provision in contract that contractor will be responsible for such injuries is void. (*Sedalia Gas Light Co. vs Mercer*, 48 Mo. App. 644; *Railroad vs Morley*, 45 Mo. App. 304.)

Sec. 6. Public Sewers—Establishment and Construction Of—Cost of, How Paid—Bed of Natural Stream Reclaimed—Land Assessed For Special Benefits—Application of Fund.—Public sewers shall be established and constructed at such times, to such extent, and of such dimensions and materials as may be approved by the Board of Public Works, and under such regulations as may be

provided by ordinance, and these may be extensions or branches of sewers already constructed, or to be constructed, or entirely new throughout, as may be deemed expedient. Public sewers shall be paid for out of the general fund of the city; *Provided, however,* That if in the construction of any public, district, or joint district sewer the bed or channel of any natural stream or water course is reclaimed and made valuable to the owners thereof, or real property subject to overflow is reclaimed therefrom, in whole or in part, and made valuable to the owners thereof, or real property adjoining such public sewer is otherwise specially benefitted, then the Common Council may provide that such real property, or any of it, shall be assessed for such special benefits, and the funds derived therefrom shall be used and applied toward the cost and construction of such public, district or joint district sewer. Such proceeding and assessment may be made and collected in such manner as may be provided by ordinance.

See note to Section 5.

Sec. 7. District Sewers—Change of District—Construction Of—Computation of Cost Of—Cost Apportioned—Payment by Special Tax Bills—City's Liability Limited.—District sewers shall be constructed or reconstructed within the limits of the districts heretofore or hereafter established by ordinance, as the case may be. Any sewer district heretofore or hereafter established may be subdivided, enlarged or changed by ordinance at any time previous to the construction of any district sewer therein. But no such district shall be subdivided, enlarged or changed after a district sewer shall have been constructed therein. The city may, with the approval of the Board of Public Works, from time to time, cause a district sewer or sewers to be constructed or reconstructed in any sewer district heretofore or hereafter established, and such sewer or sewers shall be as shall be prescribed by the Board of Public Works and confirmed as herein required by ordinance. Any district sewer heretofore or hereafter constructed, may be changed, diminished, enlarged or extended, and shall have such laterals, inlets and other appurtenances as may be prescribed by the Board of Public Works and confirmed by ordinance. As soon as the work of constructing, changing, diminishing, enlarging or expending any district sewer shall have been completed under a contract let for the purpose, the Board of Public Works shall compute the whole cost thereof, and apportion and charge the same as a special tax against the lots of

land in the district, exclusive of the improvements, and in the proportion that their respective areas bear to the area of the whole district, exclusive of the streets, avenues, alleys and public highways, and shall, except as in this article provided, make out and certify in favor of the contractor or contractors to be paid, special tax bills for the amount of the special tax against each lot or parcel of land in the district. The city shall in no event, nor in any manner whatever, be liable for or on account of the cost of work done in constructing, changing, diminishing, enlarging or extending any district sewer, except as in this article provided.

See note to Section 5 and Section 24.

Sec. 8. Joint Sewer Districts—Construction of—Cost of—Contract to Specify What—Tax Bills.—Whenever the city may deem it necessary that a sewer should be constructed or reconstructed in any part of the city containing two or more sewer districts it may, by ordinance, unite such sewer districts into a joint sewer district and cause a sewer to be constructed therein in like manner in all respects as is provided in Section seven (7) of this article in cases of district sewers, except in cases of joint district sewers the city may, if deemed proper, provide in the ordinance creating such joint district sewer that the city shall pay a certain sum to be specified in said ordinance, toward the payment of the cost of such joint district sewer; and should the common council, by ordinance, unite two or more sewer districts into a joint sewer district for the purpose of constructing a joint district sewer therein, the action of the Common Council shall be conclusive for all purposes, and no special tax bills shall be held invalid or be affected on account of the included drainage area thereof, or the size, character and purpose of such sewer; *Provided, however,* That no sewer district shall be included in such joint district which is not included in the natural drainage area of the valley or water course in which the joint district sewer is proposed to be constructed. The contract for the construction of such sewer shall specify that the city shall be liable for the sum so specified to be paid by the city, and that the remainder of the cost thereof shall be paid in special tax bills, to be issued in any manner that is or may be provided for the issuing of tax bills for the construction of sewers.

See note to Section 5 and Section 24.

Sec. 9. Private Sewers—Constructed Under Regulations—Connected With Land Outside City—Cost Of.—Private sewers may be constructed under the regulations, specifications and restrictions as may be provided by the Board of Public Works, but the city shall be at no expense in the construction or repairing of the same. Whenever land outside of the city limits is occupied, the Board of Public Works may allow such property to be connected with a sewer inside the city limits under such regulations and upon such compensation as it may determine, and all such compensation shall be expended only for the benefit of the district or districts which have contributed to the cost of the sewer with which such connection shall have been made.

Sec. 10. Septic Sewer Tanks—Cost of, How Paid.—Whenever the city shall deem it necessary it may, by ordinance, provide for the construction within or without the limits of the city of septic sewer tanks or other sewer reduction devices for the purpose of purifying the discharge from any public, district or joint district sewer, or outlet thereof; the cost of such septic sewer tanks or devices may be paid for in part or in whole out of the general fund, or in case of a district or joint district sewer, or outlet therefor, in part or in whole, in special tax bills, as a part of the cost of constructing or extending the district or joint district sewer, or outlet therefor, as may be designated by ordinance providing therefor.

Drains to Protect Street Work.—In grading or constructing any street, avenue, boulevard, alley or public highway, or part thereof, the work may be protected from running or surface water by drains or culverts upon the order of the Board of Public Works, or by the Board of Park Commissioners, as the case may be, as may be provided by ordinance, and the same may be closed, removed, or altered at will.

Does not apply to permanent culverts. (Young vs Kansas City, 27 Mo. App. 101; Russell vs Adkins, 24 Mo. App. 605.)

Duty of city in regard to constructing culverts. (Martin vs St. Joseph, K. C. Ct. App. March 1, 1909, 117 S. W. 94.)

Sec. 11. Tax Bills—How Made Out and Certified.—All special tax bills provided for by this Charter, except when issued to the city shall be made out in favor of the contractor to be paid, or his

assignee and shall be certified by the president of the Board of Public Works, or in his name, by any person or persons by the said Board thereto authorized by resolution recorded on the records of said Board; and said Board shall deliver such tax bills to the party in whose favor made out, or his assignee, and take the receipt of such party therefor in full of all claims against the city on account of the work for which such tax bills have been made out.

See note to Section 24.

See Section 12.

President of board need not sign tax bills with his own hand if name of president is signed by person authorized by board. (*Dickey vs Porter*, 203 Mo. 1; *Jaicks vs Merrill*, 201 Mo. 91.)

Computation and apportionment of cost is judicial in nature and cannot be made by city engineer without express authority by Board of Public Works. (*McQuiddy vs Vineyard*, 60 Mo. App. 610.)

It is unnecessary that the president

of the Board of Public Works personally compute, levy or assess the cost of public work. It is sufficient that he sign his name to the tax bill. Signing his name became the consummate act of computing, assessing and levying. (*Construction Co. vs Loevy*, 179 Mo. 455, l. c. 466; *Jaicks vs Merrill*, 201 Mo. 91.)

When properly authorized, clerk may sign name of president of Board of Public Works to tax bills. (*Jaicks vs Merrill*, 201 Mo. 91; *Dickey vs Porter*, 203 Mo. 1.)

Sec. 12. Computations Required by This Article, Approved by Board of Public Works.—All computations, apportionments or assessments required by this article to be made by the Board of Public Works shall be held to be properly made when the same are approved by said Board.

See note to Section 3, Section 11, and Section 24.

Sec. 13. Improvements—Contract—Modification Of.—After any contract for a public improvement has become binding upon the parties thereto, the city shall have power, without regard to whether the cost of the improvement contracted for is to be paid out of the general fund or in special tax bills, to provide by ordinance on recommendation of the Board of Public Works that a certain part of the improvement contracted for may be omitted and that the contract for the improvement be modified to that extent, which ordinance shall provide a reasonable deduction in the price of the improvement by reason of such omission, but no such ordinance shall be approved by the Mayor or become a law until the contractor and his sureties consent in writing to the terms of such ordinance. Such omission shall not affect the validity of the assessments or the special tax bills issued for the work actually performed.

See note to Section 3, and Section 24.

Sec. 14. Improvements—City May Make Without Contract—Procedure—Cost, How Assessed—May Sell Assessments of Tax Bill—City Authorized to Acquire Plant, Machinery, Etc.—

The city is hereby authorized, by ordinance to provide, that the Board of Public Works may construct or reconstruct the paving, sidewalks, guttering, or curbing, or may maintain and repair the same, or may grade or regrade any portion of a street, avenue, alley or other public highway, within the city, without letting a contract for the same. In case of gravel or macadam roadway, maintenance and repair as used in this section, may include rolling and oiling the street. A resolution shall be adopted and published, as provided in Section three of this article, and the provisions of Section three of this article shall apply so far as the same may be applicable. The cost of said work may be assessed according to the method provided in this article applicable to the class of improvement made, and the assessments therefor may be made payable as provided in Section twenty-four hereof, or in installments as provided in Section twenty-five hereof, and shall bear the same rate of interest prescribed in the respective cases. The city is authorized to cause the issue of special tax bills for such work in favor of Kansas City, the same as if such work had been done by contract, and may authorize the City Comptroller to sell and assign such assessments of such special tax bills without recourse, upon such terms and in such manner as may be provided by ordinance, and when such sale is made, the City Comptroller shall assign and deliver said tax bills to the purchaser of the same. The city is hereby authorized to acquire such plant, machinery, and equipment and to purchase such materials as may be necessary to perform the work specified in this section.

See note to Section 3, and Section 24.

(City of Elsberry vs Black, 120 Mo. App. 20.)

Sec. 15. Repairs—How Made—Cost of—How Assessed—Lien on Property.—When any sidewalk, curb or gutter on any street or avenue is out of repair, the Board of Public Works may cause the same to be put in good and substantial repair and pay the cost thereof out of the fund apportioned to said Board, and shall keep an accurate account of the cost of making such repairs in front of and adjacent to each tract of land; and shall, at the end of each fiscal year, assess and charge against the tract of land in front of which any and all such repairs shall have been made during such fiscal

year, the cost thereof, and shall certify to the City Comptroller the cost of the repairs made in front of and adjacent to each tract of land fronting or abutting upon the sides of the street or avenue on which such repairs were made, giving a description of each tract of land so charged, with sufficient accuracy to identify the same, and the amount of the assessment against the same, and thereupon the City Comptroller shall place the amount so charged on the land tax book for the next fiscal year, which assessment shall be a lien upon the property so charged from the date of the receipt of such land tax book by the City Treasurer, which assessment shall be subject to the same penalties and shall be collected by the City Treasurer in the same manner as general taxes are collected, except that no rebate shall be deducted or allowed from said assessments in case the same are paid before the time fixed in this charter when general city taxes become due.

Assessments Delinquent—How Collected—Fund.—And such assessments shall become delinquent and bear the same rate of interest and penalties and in default of payment of such assessments against any tract of land, a sale thereof shall be made by the same officers and with the same powers and in similar manner and on similar notice and at such times, as though such assessment was a duly assessed and levied general city tax against real estate; and all provisions of this Charter relative to the redemption, sale and conveyance of lands for city taxes and the rights of purchasers thereof, and the powers of city officers shall apply so far as applicable to the redemption sale and conveyance of lands to enforce the collection of such assessment. Such assessments when collected by the City Treasurer, shall be credited to the fund from which the money was paid by said Board.

See note to Section 3.
(Heman vs St. Louis, 213 Mo. 538.)

Sec. 16. Driveway Portions of Streets, Etc.—Kept in Repair—Cost of, How Paid.—The city may cause the driveway portions of any street, avenue, alley, public highway or part thereof, to be maintained and kept in repair, and may contract therefor for a period of time not to exceed three years, and pay therefor out of the general fund or by issuing special tax bills as herein provided. When it is proposed to pay for such work by the issue of special tax bills a proceeding therefor shall be begun and conducted to a

final conclusion, from the adoption of a resolution therefor to the acceptance and payment of the cost of the work by the issuance and collection of special tax bills in the same manner as is provided in regard to similar improvements mentioned in Section three of this article. In case the highway to be maintained and repaired is a macadam or gravel roadway, the specifications therefor may include the rolling and oiling of such street at such intervals as an essential part of the maintenance and repair thereof. The cost of such work, when not to be paid for out of the general fund, shall be assessed and levied against the tracts of land abutting on the highway or part thereof required by the contract to be maintained or repaired according to the frontage of the property on the highway or part thereof, named in the contract for doing the work, and tax bills shall be issued against each tract of land for its proportionate share of the cost, which tax bills, unless otherwise provided by ordinance, shall be issued within sixty days after the end of each calendar year during the continuance of such contract as payment in full for all work done under the contract during such calendar year, and shall be payable within thirty days after the date of issue thereof without interest, and if not so paid, shall bear interest at the rate of seven per cent per annum for the first year, and eight per cent per annum thereafter until paid. Every such tax bill shall be a lien on the lands against which it is issued, and the provisions of this article relating to special tax bills, except the section relating to special tax bills, payable in installments, shall so far as practicable, and not in conflict with the provisions herein contained, apply to tax bills issued under this section.

See note to Section 3, and Section 24.

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| Provision in paving contract to guarantee, maintain, and keep in repair | for a period of five years, is valid. (Heman vs St. Louis, 213 Mo. 538.) |
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* **Sec. 17. Publication of Notice Required by Charter—How Made.**—Any notice, advertisement, or publication required by this Charter to be published, shall be held to be well given, made and published, when the same is published for the required number of days in the newspaper doing the city printing on the day of the first publication of said notice. In computing the number of days during which the publication is made, Sundays and legal holidays and all calendar days between the first and last publications, shall be included and counted whether or not the paper is published on such days.

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| See note to Section 2, and Section 3. | See note to Article XVIII, Section 13. |
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Sec. 18. Sidewalks—Width of—Tree Planting Area.—Unless otherwise heretofore or hereafter specifically provided by ordinance, the width of every sidewalk, including the top of curb, shall be one-fifth of the entire width of the street or avenue of which it is a part, and on each side of every street or avenue in the city a sidewalk of that width is hereby established. The one-third of that width adjoining the curb line between such line and the property line on all sidewalks hereafter improved, unless differently provided by ordinance, shall be used as a tree planting area. But the city may, by ordinance, establish a different width of sidewalk on any highway at any time and may, by ordinance, designate the character and extent of the use and improvement of any and all sidewalks.

Territory Added to Corporate Limits.—Provided, however, that should any territory be added to the corporate limits of the city subsequently to the time when this Charter takes effect, the width of the roadway in every street or avenue in such added territory shall be twenty-six (26) feet, being thirteen (13) feet on each side of the center line of every such street or avenue. The remaining portion of every such street or avenue shall be sidewalk, including the width of the curb. But a roadway of different width may be established at any time by ordinance on any street or avenue in the territory so added to the city.

Width of sidewalks may be fixed by general ordinance and special ordinance not necessary. (*Adkins vs Railroad*, 36 Mo. App. 652.)

Ordinance establishing width of sidewalks not applicable to crossings. (*Fairgrieve vs Moberly*, 39 Mo. App. 31.)

Where ordinance prescribes width of sidewalk shall not be less than 5 feet held proper within ruling of *Sheehan vs Gleeson*, 46 Mo. 100. But provision that it shall be laid as directed by engineer in space 11 feet

wide is invalid as being a delegation of legislative function and tax bills for work are invalid. (*Ramsey vs Field*, 115 Mo. App. 620.)

Where ordinance provided for width of a sidewalk to be laid in a space 13 feet wide, but did not locate it within the space, ordinance and tax bills were invalid. (*Municipal Securities Corp. vs Gates*, 130 Mo. App. 552.)

Power of city to establish and alter width of roadway and sidewalk. (*Ely vs St. Louis*, 181 Mo. 723; *l. c.* 730; *Ruppenthal vs St. Louis*, 190 Mo. 213.)

Sec. 19. Contracts For Improvements on Streets, Etc.—Lowest Bidder—Covenant to Pay Laborers and for Materials—Sureties—Suit on Contract, Limitation—Parties—Proceedings—Judgment—Distribution of Money Collected—Court.—Contracts for making city improvements on streets, sidewalks, avenues or alleys

or for constructing sewers, let to the lowest and best bidder, shall contain a covenant on the part of the contractor or contractors with the city, to pay for the work and labor of all laborers, subcontractors, and teamsters, teams and wagons employed on the job, and for all materials used therein, and performance of such covenant shall be guaranteed by good and sufficient sureties signing the contract, whose sufficiency shall be approved by the City Comptroller, but who shall not be liable beyond the estimated cost of the materials used and the labor done upon the job, to be stated in the contract; *Provided*, That the city shall not be liable for the sufficiency of the contractors or sureties, nor for any failure to comply with or irregularity in complying with this provision. Laborers, subcontractors and teamsters and owners of teams and wagons who may do work, and parties who may furnish materials stipulated for by any such contract, may recover in an action in the name of the city for their use (in which no cost shall be adjudged against the city and all costs not adjudged against the defendant shall be adjudged according to equity against the persons for whose use the suit may be presented), all money due them for labor and materials, or either, not exceeding the estimated cost of the labor and materials as stated in the contract; and such recovery may be had against the contractor and sureties, or either, as in chancery; but it shall not be necessary to file with the petition the original contract. Suit may be brought for the benefit of all laborers, subcontractors, teamsters and owners of teams and wagons on the job, and for materials used in the performance thereof, and the amount due them to be ascertained by the court or referee, unless the court direct an issue to be tried by a jury; pending the suit, laborers, subcontractors, teamsters and owners of teams and wagons, and parties who have furnished materials for the performance of the contract, not mentioned in the petition, whether they have done work or furnished materials before or after the commencement of the suit, may become parties to the proceedings by appearing and filing in the action a written statement of their demand. Such notice thereof as the court may direct shall be given to the defendants, and reasonable opportunity to defend shall be given. The proceedings shall, as far as practicable, be governed by the rules and principles of courts of chancery, so as to afford speedy and adequate relief according to the spirit and letter of this section. Judgments shall be rendered for the estimated cost of labor and materials as stated in the contract, and execution shall be awarded and issued for the aggregate amount found due the laborers, subcontractors,

teamsters and owners of teams and wagons, and the parties who have furnished materials, not exceeding the estimated cost in the contract, which shall be collected, with costs. The money shall, after paying costs, be divided and paid *pro rata* among those for whose use the judgment may be rendered. The court shall decide all questions as to distribution summarily on motion. No action shall be brought or prosecuted for the benefit of laborers, subcontractors, teamsters or owners of teams and wagons, or parties who have furnished materials on the contract, unless the suit be commenced within three months after the completion of the work to be done under the contract and acceptance thereof by the city, nor shall such action be brought before such completion and acceptance, unless the court find good cause therefor according to the averments in the petition. Suits shall be brought in some court of competent jurisdiction in Jackson county, if jurisdiction of the proper parties can be obtained in the county.

City has right to require bond. (St. Louis vs Von Phul, 133 Mo. 56; Kansas City ex rel. vs Youmans, 213 Mo. 151.)

Under prior charter a sub-contractor who contracted to do certain work, material to be furnished by contractor, could not recover on contractor's covenant as he was not a laborer within the meaning of the charter. (Kansas City to use vs McDonald, 80 Mo. App. 444.)

Sub-contractor may sue on contractor's covenant for material furnished when the work has been completed, even though the city has not accepted the work. (Kansas City ex rel. Brick Co. vs Walsh, 88 Mo. App. 271.)

Suit on covenant must be brought within three months after acceptance of work, which means acceptance by Board of Public Works. Record made by city engineer accepting work not to be considered in reckoning the period of limitation. (Kansas City vs McDonald, 73 Mo. App. 439.)

Contract of sureties to be strictly construed. Continuing and limited guaranty. What are "materials" within meaning of section. Constitutionality of provision for court procedure. (Kansas City to use of Brick Co. vs Youmans, 213 Mo. 151.)

In suit by material men on covenant of contractor for a street pavement, it is no defense that ordinance and contract for the work are void, as the contract between materialmen and contractor is independent of contract between city and contractor. (Kansas City ex rel. Brick & Tile Co. vs Schroeder, 196 Mo. 281.)

Clause in bond providing for a faithful performance of contract does not make city trustee of express trust with authority to sue for use and benefit of property owners for additional cost of improvement in excess of sum fixed by broken contract. (St. Louis vs Wright Contracting Co., 202 Mo. 451.)

Equitable garnishment by materialmen of funds due from city to contractor and priority of such right over right of surety who completed work. (St. Louis vs O'Neil Lumber Co., 42 Mo. App. 586; St. Louis vs Keane, 27 Mo. App. 642.)

Surety not liable to third person for personal injuries received through negligence of contractor. (Kansas City ex rel. vs O'Connell, 99 Mo. 357.)

Contractor's partner may be one of the sureties on his contract. (Kurtz vs Knapp, 127 Mo. App. 608.)

Sec. 20. Sureties on Bonds and Contracts.—The provision of Section twenty-nine (29) of Article four (IV) of this Charter with reference to sureties and bonds shall apply to any bond or contract provided for in this article.

Sec. 21. Remonstrance of Property Owners—Board of Public Works Shall Determine Sufficiency Of.—Whenever a remonstrance of property owners against public improvements purporting to be executed under the authority of this Charter is filed with the Board of Public Works, the Board shall canvass the same and determine and certify whether or not such remonstrance is legally sufficient under the requirements of this Charter, and such certificate shall be final and conclusive as to the legal sufficiency of such remonstrance, and the determination of the said Board that no legal remonstrance has been filed shall be conclusive of that fact.

See note to Section 3.

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| Held Section 22 of prior charter did not apply to petitions of property owners selecting materials to be used for | paving business streets. (Gilsonite Const. Co. vs Coal Co. 205 Mo., 49.) |
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Sec. 22. Tax Bills—Apportionment of to City Treasurer—To Contain What—Treasurer Shall Enter in Special Tax Record.—As soon as the cost of any work, payable in special tax bills, as in this article provided, has been assessed against the several tracts of land chargeable therewith, the Board of Public Works shall, at the time of delivering the tax bills to the contractor, or his assignee, entitled thereto, certify such apportionment and assessment to the City Treasurer, which apportionment shall contain the names of the owners and parties interested in the several tracts of land affected and charged therewith who were such at the date when the work was accepted by the said Board, such names to be determined and taken from the city assessor's books at the time; but no defect or mistake in said books, or in the description therein of the parcels of land, or in the names in such apportionment, shall impair or affect the validity of the tax bills. The City Treasurer shall, immediately upon the receipt of such apportionment, enter the assessments therein contained in appropriate books to be kept for that purpose, showing the property assessed, the title and date of approval of the ordinance providing for the improvement for which such tax bills are issued, the amount and date of the assessment and the rate of interest thereon, which book shall be denominated, "Special Tax Record."

Notice to Parties—Payment—How Received.—Immediately upon receipt of such apportionment, the City Treasurer shall give notice, by mail or otherwise, as provided by ordinance, to the parties named in such apportionment, of the issuance of the tax bills against the tract of land in which they appear to be interested as appears by such apportionment, describing such tract of land, and stating in general terms for what purpose issued, the amount, rate of interest, and when and where payable. Any person owning or interested in any tract of land against which a special tax bill may be issued under the provisions of this Charter, may pay the same to the City Treasurer, whose duty it shall be to receive the amount thereof, without charge or commission, and to issue to such person duplicate receipts therefor, showing from whom received, the date, the amount of such tax bill, with a description of the land as described in such bill; the original of such receipt shall be countersigned by the Auditor, and delivered to the person entitled thereto; the duplicate thereof shall be filed by the Auditor in his office, and he shall enter a memorandum thereof in a book kept for that purpose. The City Treasurer shall cancel and mark "paid" the amount of such tax bill so paid, on the record thereof, and such entry shall be evidence of the payment as stated, and said tract of land shall be discharged from all liens on account of such tax bill so paid from that date. The person to whom any such tax bill may be issued or the assignee thereof shall be entitled to receive on demand the money so paid to the City Treasurer only on delivery to the City Auditor of such special tax bill, duly receipted in full, who shall file the same in his office and draw a warrant upon the City Treasurer in favor of the party so entitled to receive the same, for the amount so paid to the City Treasurer on account of such special tax bill, which warrant, before it shall be paid, shall be countersigned by the Comptroller.

See note to Sec. 24.

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| Effect of error of treasurer in marking payment against wrong lot in | special tax book. (Adams vs Lewellen, 117 Mo. App. 319.) |
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Sec. 23. Special Tax Record—To Show What—Kept by Treasurer—Special Assessments Considered Special Taxes—A Lien—Treasurer to Furnish List of Special Tax Bills.—The special tax record to be kept by the Treasurer shall be complete and full and show all special tax bills, if any, issued under this Charter, and all benefit assessments arising out of condemnation and grading cases made under the provisions of Articles six (VI) and seven (VII), respectively, of this Charter, which

may be in his hands for collection against any lot or parcel of land in Kansas City. Any and all special assessments therein contained, whether arising out of the issuance of special tax bills, as in this article provided, or by virtue of the verdict or report of juries or commissioners in such condemnation or grading proceedings, respectively, shall be considered for the purpose of collecting and receiving payment thereof, as special taxes against any lot or parcel of land against which the same may be a lien, and upon application to the City Treasurer for the amount of general city taxes against any lot or parcel of land in Kansas City, said treasurer shall also furnish to the party making such application, a list of all special tax bills and such benefit assessments against such lot or parcel of land as appear by said record at that time. The Common Council may, by ordinance, consistent with the provisions of this Charter, further regulate the keeping of the records, by the City Treasurer, of special tax bills and benefit assessments against private property arising out of the provisions of Articles six (IV) and seven (VII), of this Charter, and the collection of such assessments by execution and sale of the private property against which the same may be a lien.

Failure to Comply With This and the Next Preceding Section.—Failure to comply with the provisions of this and the next preceding section of this article shall not vitiate or impair any tax bill. Nor shall the execution of the provisions of this and the next preceding section, or failure or defect in executing the provisions of said two sections impair or vitiate the general city taxes on any lot or parcel of land.

See note to Section 24.

Sec. 24. Tax Bills—Payment—Cancellation—Lien—Suit on —Parties.—Every special tax bill may be paid to the owner or holder thereof, and upon presentation of such tax bill marked “paid” to the City Treasurer, he shall cancel and mark “paid” the amount of such tax bill on the record thereof, which entry when made, shall have the same effect to discharge the tract of land affected by such tax bill from the lien thereof, as if the amount of such tax bill had been paid to the City Treasurer as in Section twenty-two of this acticle provided, and such entry shall be evidence of the payment of the tax bill as therein stated. Every special tax bill issued under the provisions of this article shall be a lien upon the land described therein upon the date of the certification thereof to the City Treasurer, as in this ar-

ticle provided, and such lien shall continue for two years thereafter, but no longer, except as in this article otherwise provided, unless suit shall be brought to collect the same within two years from the date of said certification, in which case the lien shall continue until the determination of the legal proceedings to collect the same, including any sale of the property charged; *Provided, however,* That if such suit shall be brought within the two years, the plaintiff or plaintiffs therein shall within ten days after the bringing of such suit, in person or by attorney or agent, file in the office of the City Treasurer a written statement giving a brief description of the tax bill sued on, and in what court and against whom such suit shall have been brought. The City Treasurer shall immediately after the filing of any statement, note on the record of such tax bill the time of filing such statement and the substance of the same. If the plaintiff or plaintiffs in such suit shall fail to file such statement within the time above limited, the land described in the tax bill sued on shall be free from the lien of the tax bill and of any judgment in such suit, no matter when rendered, and shall not be sold in satisfaction of any such judgment; *Provided, however,* That failure to file said notice shall not affect or invalidate said lien or judgment as to the interest of persons made parties to such suit and served with process in said suit. Every special tax bill if paid within thirty days from the date of said certification thereof, shall bear no interest; if not paid within such time, shall bear interest from the date of the certification thereof at the rate of seven per cent per annum. No tax bill need give the name of any party owning or interested in the land charged thereby; and before suit, the owner of any part in severalty or of any undivided interest in the land charged by any tax bill, may pay his share separately, in which case his part or interest shall not be liable in case of suit. Such tax bills shall be issued within twenty days from the completion and acceptance of the work, but the failure to issue them within such time shall not affect the validity of the tax bills. All or any of the owners of the land charged, or of any interest or estate therein, may be made defendants in any suit upon a tax bill and the right, title interest or estate of the parties made defendants in any such suit shall be bound thereby, and the owners of the land as shown by the records in the office of the recorder of deeds of Jackson county, Missouri, and by the records of the courts of record having jurisdiction in Kansas City shall be conclusively held to be the owners thereof for the purpose of foreclosing such liens, and all suits on special tax bills may be brought in the names of the owners or assignees thereof.

Unknown Owner or Non-Resident, Etc.—Pleading—Evidence.—In case any owner of land or interest therein shall be unknown, or a nonresident of the state, suit may be brought against such owner separately or together with others, and such unknown or nonresident owner may be proceeded against and charged by giving notice, either by publication in a newspaper or otherwise as in a suit in the Circuit Court of Jackson county, to enforce any other lien on land in the county. Every such tax bill and lien thereof shall be assignable and the assignee thereof may sue in his own name. It shall be sufficient for the plaintiff in any suit to plead the making and issuance of the tax bill sued on, giving the date and contents thereof, and the assignment thereof, if any, and to allege that the parties or party made defendants own or claim to own the land charged or some estate or interest therein, as the case may be, and to file the tax bill in the suit, or to set out a copy thereof in the petition. Special tax bills, whether issued pursuant to one or more contracts or against one or more parcels of land owned by the same party or parties made defendant, may be joined in one suit, but a separate judgment on each tax bill shall be rendered and execution shall be issued accordingly. The ordinance authorizing any public improvement and the contract therefor, and approving and confirming such contract, shall operate and shall be held by all departments and courts, to cure all errors and irregularities, if any, on the part of the city in the proceedings relating to such improvements, up to and including the time such ordinance takes effect, and no tax bill shall be defeated, or the amount or lien thereof, in anywise be affected, by reason of any such error or irregularity. Every tax bill shall, in any suit thereon, be *prima facie* evidence of the validity of the bill, of the doing of the work and of the furnishing of the material charged for and of the liability of the land to the charges stated in the tax bill. *Provided*, That nothing in this section shall be so construed as to prevent any defendant from pleading and proving in reduction of any bill, any mistake or error in the amount thereof, or that the work therein mentioned was not done in a good and workmanlike manner; and *Provided, further*, that if any party shall plead any mistake or error in the amount of the bill or that the work was not done in a workmanlike manner, and that such party before the commencement of the suit, tendered to the contractor, or holder of the bill, the full value of the work done, and shall establish the same on the trial, the recovery shall only be for the amount so tendered and judgment for costs shall be rendered against the plaintiff. *Provided, further*,

That if it shall be pleaded and proved that the work for which the bill was issued was not done according to the terms of the contract made by the contractor with the city, then the plaintiff or plaintiffs shall recover thereon only the actual value of the work done, if of any value, and if not of any value, the judgment shall be for the defendant. No suit on any tax bill shall be defeated or affected by any irregularity affecting any other bill, or matter rendering any other bill invalid in whole or in part.

**Special Judgment—Jurisdiction of Court—Sale—Execution—
—Certificate of Purchase—Redemption—Deed—Proceedings to
Conform to, What—Certificate of Purchase, When Filed for
Record—Contribution When Owner of Undivided Interest Com-
pelled to Pay More Than He Ought.**—In a suit on any special tax bill except as in this article otherwise provided, judgment shall be special that the plaintiff shall recover the amount found due, including interest, together with costs, to be levied and made off of the land described in the tax bill, and a special execution shall issue to sell the land to pay any such judgment, interest and costs. The judgment, exclusive of costs, shall bear interest at the same rate as the tax bill. Suits on special tax bills issued under this article may be brought in any court of competent jurisdiction. When the amount due on any tax bill shall not exceed three hundred dollars, suit may be brought thereon in the Circuit Court of Jackson County, or in the municipal court of Kansas City, but to enforce any judgment rendered by said municipal court, a transcript of the judgment shall be filed in the office of the clerk of the Circuit Court of Jackson county, in said city, and duly docketed, recorded and indexed as a judgment of that court; whereupon, a special execution may issue out of that court the same as if the judgment had been rendered in that court. Upon sales made by the sheriff upon any such special executions, he shall issue to the purchaser a certificate of purchase, setting forth the substance of such special execution, the date of sale, the purchaser, the property sold, and the amount bid. If the property so sold be redeemed within one year from the date of such sale by payment to the sheriff of the amount due on said judgment, including interest and costs up to the date of redemption by the owner of, or party interested in, said property, no deed shall be given by the sheriff. Upon such redemption as herein provided of any tract of land sold under such special execution,

the judgment against the same and the lien thereon shall be satisfied on the record of such judgment in the office of the clerk of the Circuit Court aforesaid by said clerk upon presentation of the receipt of the sheriff for the amount necessary for the redemption. If the tract of land so sold be not redeemed, as herein provided, a deed shall be given at the end of one year from the date of said sale by the sheriff to the holder of such certificate. Such deed may be given to the original holder of such certificate or his assignee, and shall vest all the right, title, interest and estate in the land so sold that defendants, and each of them, owned at the time that the lien of the tax bill commenced, or acquired afterwards and every such special judgment as herein provided, shall bind all the right, title, interest and estate in the land that defendants, and each of them, owned at the time that the lien of the tax bill commenced, or acquired afterwards. Parties interested in lands not made defendants shall not be affected thereby, and if they claim through or under any party defendant by right acquired before such suit was brought may redeem from the purchaser or otherwise assert their rights according to equity and good conscience. Proceedings on special executions on judgments on special tax bills shall, as herein provided, including the making of deeds to purchasers, conform as far as practicable to proceedings on other special executions from the Circuit Court. Such certificate of purchase shall be delivered by the sheriff to the purchaser, or his assignee on the payment of the amount bid, which certificate shall be executed and acknowledged by such sheriff before an officer authorized to take acknowledgments of instruments affecting real estate, and shall be filed for record in the office of the recorder of deeds of Jackson County, at Kansas City, within six months after the date of the same. In case the owner of any undivided interest or particular estate in any land charged, be compelled by suit to pay on account of any such tax bill more than he ought equitably to pay as between him and others interested in the land, such owner so paying shall be subrogated to the lien of such tax bill, and may, by proper proceedings in any court of competent jurisdiction, enforce such lien and have the equities between such owner so paying and other parties interested in the land adjusted, though such other parties were not parties defendant to the original suit on the tax bill, and though such subsequent proceedings may be commenced after two years from the issue of the tax bill, and the lien of the tax bill shall continue after the two years for the purpose of such remedy, or the

owner so paying shall be entitled to contribution from others according to equity without enforcing the lien.

See note to Sec. 3.

Tax Bills. The ability of a city to create a lien on the property of the abutting owner for street improvements is in invitum, and rests exclusively on a substantial adherence to the method prescribed by the ordinances authorizing the same, and of the Charter as the basic power. (*Paving Co. vs Munn*, 185 Mo. 552 l. c. 574; *Kiley vs Oppenheimer*, 55 Mo. 374; *Rose vs Trestrail*, 62 Mo. App. 352; *Smith vs Westport*, 105 Mo. App. 221, l. c. 224; *Construction Co. vs Geist*, 37 Mo. App. 509, 512, 513; *Independence vs Gates*, 110 Mo. 374 l. c. 385. See also *City of Elsberry vs Black*, 120 Mo. App. 20, 23 and *Excelsior Springs vs Ettenson*, 120 Mo. App. 215.)

Effect of adoption of new Charter upon tax bills issued under prior Charter. (*Kansas City to use vs American Surety Co.*, 71 Mo. App. 315; *Security Savings Trust Co. vs Donnell*, 81 Mo. App. 147.)

Provision in prior Charter requiring objections to tax bills to be filed within sixty days from issue, was unconstitutional. (*Gilsonite Const. Co. vs Coal Co.*, 205 Mo. 49; *Barber Asphalt Paving Co. vs Munn*, 185 Mo. 552; *Curtrice vs Schmidt*, 202 Mo. 703; *Schibel vs Merrill*, 185 Mo. 534; *Dickey vs Orr*, 132 Mo. App. 416.)

Tax bills against land give holder no title to land and proceeding to enforce them do not involve title to land. (*Ross vs Gates, et al.*, 183 Mo. 338.)

Tax bills must be based on valid assessment. (*Heman vs Farish*, 97 Mo. App. 393; *St. Louis vs Brinckwirth*, 204 Mo. 280.)

Each lot must be charged separately and one tax bill against contiguous lots is void. (*Hannibal vs Richards*, 35 Mo. App. 15; *Kemper vs King*, 11 Mo. App. 116; *Christian to use vs Taussing*, 8 Mo. App. 602; *Fowler vs St. Joseph*, 37 Mo. 228; See *Heman Const. Co. vs Loevy*, 64 Mo. App. 430; *Hill-O'Meara vs Sessinghaus*, 106 Mo. App. 163.)

Board of Public Works may be compelled by mandamus to issue tax bills. (*Kiley vs St. Joseph*, 67 Mo.

491; *Moberly ex rel. vs Hassett*, 127 Mo. App. 11, l. c. 15.)

Failure to issue tax bill within twenty days from completion of work will not affect its validity. (*Dollar Sav. Bank vs Ridge*, 183 Mo. 506.)

Execution of tax bills. (See Sec. 11; *Stifel vs Southern Cooperation Co.*, 38 Mo. App. 340; *Heman Const. Co. vs Loevy*, 179 Mo. 455; *Eyerma vs Payne*, 28 Mo. App. 72; *McQuiddy vs Vineyard*, 60 Mo. App. 610; *Menefee vs Bell*, 62 Mo. App. 659; *Heman vs McLaren*, 28 Mo. App. 654; *Dickey vs Porter*, 203 Mo. 1; *Jaicks vs Merrill*, 201 Mo. 91.)

Re-issue, amendment and correction of tax bills. (See Sec. 27; *Morley vs Weakley*, 86 Mo. 451; *Vleth vs Planet Property Co.*, 64 Mo. App. 207; *St. Joseph vs Forsee*, 110 Mo. App. 237; *Riley vs Stewart*, 50 Mo. App. 594; *Galbreath vs Newton*, 45 Mo. App. 312; *Eyerma vs Payne*, 28 Mo. App. 72; *Eyerma vs Provenchere*, 15 Mo. App. 256; *Weber vs Schergens*, 28 Mo. App. 587; *Stadler vs Roth*, 59 Mo. 400; *Kiley vs Oppenheimer*, 55 Mo. 374; *Kiley vs Cranor*, 51 Mo. 541; *State ex rel. vs St. Louis*, 183 Mo. 230; *Eyerma vs Scollay*, 16 Mo. App. 498; *Morley vs Weakley*, 86 Mo. 451; *Eyerma vs Blakesley*, 13 Mo. App. 407.)

Issuance of tax bills before completion of work. (*St. Louis to use vs Clemens*, 49 Mo. 552; *Kiley vs Cranor*, 51 Mo. 541; *Weber vs Schergens*, 59 Mo. 389; *Independence vs Gates*, 110 Mo. 374; *Heman Const. Co. vs Loevy*, 179 Mo. 455; *St. Joseph, ex rel. vs McCabe*, 58 Mo. App. 542.)

When work completed so as to permit issuing of tax bills. (*Porter vs Boyd Paving Co.*, 214 Mo. 1.)

Description of property sufficient if property may be identified. (*Construction Co. vs Loevy*, 64 Mo. App. 430.)

Tax bills must state what. (*Carroll vs Eaton*, 2 Mo. App. 479; *Haegle vs Mallinckrodt*, 3 Mo. App. 329; *City of Linneus vs Locke*, 25 Mo. App. 407.)

Tax bills need not show that every pre-requisite step has been taken. (*Keith vs Bingham*, 100 Mo. 300.)

Description of property in tax bills. (Construction Co. vs Loevy, 64 Mo. App. 430; City of Jefferson vs Whipple, 71 Mo. 519; Adkins vs Quest, 79 Mo. App. 36; State ex rel. vs Burrough, 174 Mo. 700; State ex rel. vs Linney, 192 Mo. 49.)

Effect of mistake or omission of name of property owner. (Eyermann vs Scollay, 16 Mo. App. 498; St. Louis vs De Noue, 44 Mo. 136; Stadler vs Roth, 59 Mo. 400; Galbreath vs Newton, 45 Mo. App. 312; Vieths vs Planet Co., 64 Mo. App. 207; Farrell vs Rammelkamp, 64 Mo. App. 425; Kansas City vs Surety Co., 71 Mo. App. 315.)

Owner of undivided interest. (City of Louisiana vs McAllister, 104 Mo. App. 152; Farrell vs Rammelkamp, 64 Mo. App. 425.)

Minors owning undivided interests. (Horstmeyer vs Connors, 56 Mo. App. 115.)

Life tenant and remainderman. (Bobb vs Wolff, 54 Mo. App. 515.)

Where improvements are not of a permanent nature, tax bills should be paid by life tenant and contribution from remainderman cannot be enforced. (Reyburn vs Wallace, 93 Mo. 326; Berry vs Stigall, 125 Mo. App. 264, l. c. 268.)

Where property is held in trust. (St. Louis vs Bernoudy, 43 Mo. 552.)

Where there is a deed of trust on the property. (St. Louis vs De Noue, 44 Mo. 136.)

Effect of errors in computation. (City of Boonville vs Rogers, 125 Mo. App. 142, and cases cited 148; Haegele vs Mallinckrodt, 3 Mo. App. 329; Gallaher vs Bartlett, 64 Mo. App. 258; Creamer vs Allen, 3 Mo. App. 545; Creamer vs McCurne, 7 Mo. App. 91; Neenan vs Smith, 60 Mo. 292.)

Tax bills need not recite the basis of apportionment. (Dickey vs Porter, 203 Mo. 1.)

Tax bills may include cost of paving street intersections. (Sheehan vs Owen, 82 Mo. 458; Powell vs St. Joseph, 31 Mo. 347; Chillicothe, ex rel. vs Henry. K. C. Ct. App. March 29, 1909, 118 S. W. 486; Heman Const. Co. vs McManus, 102 Mo. App. 649.)

Presumption that receipt was given for tax bills. (Keith vs Bingham, 100 Mo. 300.)

Delivery of tax bill is presumed to have been made on day of date of bill.

(St. Louis vs Armstrong, 38 Mo. 29.)
Void, voidable or irregular tax bills. (Weber vs Schergens, 28 Mo. App. 587; See note to Sec. 27.)

Lien.—Lien of tax bills under prior Charter. (Everett vs Marston, 186 Mo. 587; Mercantile Trust Co. vs Nigge-man, 119 Mo. App. 56.)

Property owner cannot by agreement extend lien. (Adkins vs Case, 81 Mo. App. 104.)

Lien of tax bill superior to lien of prior deed of trust. (Keating vs Craig, 73 Mo. 507.)

Where land has been condemned for public use before tax bills against it have been paid, money awarded as damages stands in place of land. (Ross vs Gates, 183 Mo. 338, s. c. 117 Mo. App. 237.)

Assignment of Tax Bills.—Tax bills are assignable but not negotiable. (Young vs Brewster, 62 Mo. App. 628; Dickey vs Porter, 203 Mo. 1, l. c. 23; Gordon vs Jefferson City, 111 Mo. App. 23.)

Assignment by corporation. (Bambrick vs Campbell, 37 Mo. App. 460.)

Issuing tax bills to assignee of contract. (St. Louis to use vs Clemens, 42 Mo. 69; Brick Terra Cotta Co. vs Hull, 49 Mo. App. 433.)

Pledging Tax Bills.—(Dickey vs Porter, 203 Mo. 1.)

Suit on Tax Bills.

Limitation.—See note to Section 25.

Limitation of what Charter governs. (Kansas City to use vs Surety Co., 71 Mo. App. 315.)

Under prior Charter, period of limitation began to run from date of delivery of tax bill to contractor. (Folks vs Yost, 54 Mo. App. 55.)

Installment bills. (Barber Asphalt Paving Co. vs Meservey, 103 Mo. App. 186; See Sec. 25, and note.)

Delivery presumed on date of bill in absence of evidence. (St. Louis vs Armstrong, 38 Mo. 29.)

New parties made defendants after the period of limitation has expired, may defeat the suit even though suit was begun in time. (Jaicks vs Sullivan, 128 Mo. 177; Smith vs Barrett, 41 Mo. App. 460; Forrey vs Holmes, 65 Mo. App. 114.)

What is period of limitation when first issue of tax bills is invalid and new bills are issued? (Eyerman vs Payne, 28 Mo. App. 72; Weber vs

Schergens, 28 Mo. App. 587; McQuiddy vs Gates, 69 Mo. App. 156; St. Joseph ex rel. vs Baker, 113 Mo. App. 691.)

Rule where bills first issued are only irregular. (Eyerann vs Scollay, 16 Mo. App. 498.)

Suit is deemed to commence when. (Turner vs Burns, 42 Mo. App. 94; Heman vs Larkin, 99 Mo. App. 294.)

Jurisdiction—Jurisdiction determined by aggregate amount of tax bills sued on. (Hunt vs Hopkins, 66 Mo. 98; Barnes vs Met. Street Ry. Co., 119 Mo. App. 303.)

Circuit Court exercises general jurisdiction in suits on tax bills. (Charley vs Kelley, 120 Mo. 134; St. Louis vs Gleason, 15 Mo. App. 25.)

Under prior Charter, Circuit Court and Justices of the Peace had concurrent jurisdiction. (Tackett vs Vogler, 85 Mo. 480.)

Jurisdiction of Justice of the Peace under prior Charter. (Kansas City to use vs Summerwell, 58 Mo. App. 246; Kansas City ex rel vs Winner, 58 Mo. App. 299; Karnes vs Alexander, 92 Mo. 660; Corrigan vs Morris, 43 Mo. App. 456.)

Notice of Suit.—Effect of failure to file notice with treasurer as provided by prior Charter. (Security Savings Trust Co. vs Donnell, 81 Mo. App. 147; Ross vs Gates, 117 Mo. App. 237.)

Penalty prescribed by prior Charter for failure to file notice of suit on tax bills in office of treasurer, was held invalid. Requirement to file notice was held valid and to be for benefit of third parties only. (Haag vs Ward. Rec. et al., 186 Mo. 325.)

Notice stating that suit was begun on fourteenth when in fact it was begun on twenty-first of month not sufficient. (West vs Porter, 89 Mo. App. 150.)

Notice of suit filed with treasurer must contain everything required by Charter. (West vs Porter, 89 Mo. App. 150.)

Parties.—Real party in interest as plaintiff. (Dickey vs Porter, 203 Mo. 1.)

Proper party plaintiff in suit on tax bill which has been pledged. (Dickey vs Porter, 203 Mo. 1.)

Suit should be brought against persons who are the record owners of the property at the commencement of the

suit. (Smith vs Barrett, 41 Mo. App. 460; Cowell vs Gray, 85 Mo. 169; Vance vs Corrigan, 78 Mo. 94.)

Where there is actual notice as to real owner. (Stuart vs Ramsey, 196 Mo. 404.)

Where the person in whose name property is of record, is dead at time of commencement of suit. (Jaicks vs Sullivan, 128 Mo. 177.)

Trustee in deed of trust not necessary party. (Keating vs Craig, 73 Mo. 507.)

But holder of note, secured by deed of trust must be made party to bar his right to redeem. (Corrigan vs Bell, 73 Mo. 53; Longwell vs Kansas City, 69 Mo. App. 177.)

Any person claiming title may be made defendant. (Keith vs Bingham, 100 Mo. 300.)

Contribution may be had by owners who are made parties from co-owners not made parties. (Schneider Granite Co. vs Taylor, 64 Mo. App. 37.)

City is not a real party to the record when suit is brought in its name to use of holder of tax bill and judgment cannot be rendered against it. (St. Louis to use vs Clemens, 49 Mo. 552.)

No one is bound by proceedings who is not a party to the suit. Jaicks vs Sullivan, 128 Mo. 177; Paving Co. vs Ridge, 169 Mo. 376, 1. c. 387.)

Process and Service. See Section 28 and note to Article VII, Section 2.

Pleadings.—Sufficiency of petition. (City of Joplin ex rel. vs Hollingshead, 123 Mo. App. 602; City of Mexico vs Lakenan, 129 Mo. App. 180; Adkins vs Railroad, 36 Mo. App. 652; Buchan vs Broadwell, 88 Mo. 31; Morley vs Weakley, 86 Mo. 451; Butler vs Robinson, 75 Mo. 192; Hunt vs Hopkins, 66 Mo. 98; Culligan vs Studebaker, 67 Mo. 372; Irvin vs Devors, 65 Mo. 625; Turner vs Patton, 54 Mo. App. 654; Guinnotte vs Ridge, 46 Mo. App. 254; Eyerann vs Payne, 28 Mo. App. 72; Moberly vs Hogan, 131 Mo. 19; Vieths vs Planet Property Co., 64 Mo. App. 207; Gallaher vs Bartlett, 64 Mo. App. 258; Bank vs Wright, 68 Mo. App. 144; Barber Asphalt Co. vs Young, 68 Mo. App. 175; Bank vs Woesten, 68 Mo. App. 137; Kansas City to use vs American Surety Co., 71 Mo. App. 315.)

Suit is based on tax bill and not on ordinance and ordinance need not be

pleaded. (Kansas City ex rel. vs American Surety Co., 71 Mo. App. 315.)

General Denial. Defense that power to impose tax never existed is available under general denial. (Chillcothe ex rel. vs Henry, K. C. Ct. of App., March 29, 1909, 118 S. W. 486.)

General denial admits any evidence which may show that preliminary proceedings never ripened into valid tax bill. (Cushing vs Powell, 130 Mo. App. 576.)

Defense that work was not completed within time required not available under general denial. (Hill-O'Meara Construction Co. vs Hutchinson, 100 Mo. App. 294.)

Judgment will be for defendant under general denial where plaintiff fails to prove tax bill. (St. Louis vs Brinckwirth, 204 Mo. 280.)

Special Defenses.—See Jaicks vs Merrill, 201 Mo. 91.)

Where defense is that municipal authorities were influenced by fraud, acts which constitute fraud must be pleaded. (Barber Asphalt Paving Co. vs Field, 188 Mo. 182.)

Defense of defective work must be pleaded. (Guinnotte vs Ridge, 46 Mo. App. 254; Vieths vs Planet Property Co. 64 Mo. App. 207; Gallaher vs Bartlett, 64 Mo. App. 258.)

Defense of limitation must be pleaded. (Adkins vs Quest, 79 Mo. App. 36.)

Failure to file notice of suit cannot be shown under general denial. (Menefee vs Bell, 62 Mo. App. 659.)

Defense that work was not done in workman-like manner. (Barber Asphalt Paving Co. vs Ullman, 137 Mo. 543.)

Tax bill cannot be defeated on ground that property was not benefited or that there was no necessity for improvement. (Keith vs Bingham, 100 Mo. 300; St. Louis vs Ranken, 96 Mo. 497; McQuiddy vs Smith, 67 Mo. App. 205.)

In action on tax bill, question of benefit or injury by improvement cannot be raised. (Moberly vs Hogan, 131 Mo. 19.)

Defendant may plead as set off, debt due from owner of tax bill. (Kansas City to use vs Ridenour, 84 Mo. 253.)

No defense to tax bill that portion of street paved was used as stand for wagon. (Donovan vs Coles, 33 Mo. App. 161.)

Tender of amount admitted to be due when defense is made that contract was not performed in workman-like manner. (Asphalt Paving Co., vs Ullman, 137 Mo. 543.)

Contractor before making bid cannot agree with certain property owners to take less for work for which they are liable without violating bills issued against other owners, but he may after the tax bills are issued, settle them for less than their face. (Kurtz vs Knapp, 127 Mo. App. 608.)

Tax bills are not void because the contract for the improvement required the contractor to observe an eight hour labor ordinance of the city. (Curtrice vs Schmidt, 202 Mo. 703.)

Defenses to tax bills when available in collateral proceedings. (Barber Asphalt Paving Co. vs Kiene, 99 Mo. App. 528.)

In action on special tax bill defendant can set off debt due himself from owner of tax bill. (City of Kansas to use vs Ridenour, 84 Mo. 253.)

Evidence.—There must be a special tax bill in accordance with law and there can be no recovery unless tax bill sued on is put in evidence. (St. Louis vs Brinckwirth, 204 Mo. 280.)

Duly authorized tax bill read in evidence places upon defendant burden of proving any fact relied upon to show invalidity. (Asphalt Paving Co. vs Ullman, 137 Mo. Mo. 543, l. c. 560.)

Tax bills are prima facie evidence of their validity. (Huling vs Bandera Flagstone Co., 87 Mo. App. 349; Ross vs Gates, 117 Mo. App. 237; Heman vs Larkin, 108 Mo. App. 392; Heman vs Farish, 97 Mo. App. 393; St. Joseph to use vs Farrell, 106 Mo. 437; Neenan vs Smith, 60 Mo. 292; St. Louis to use vs Bernoudy, 43 Mo. 552; Springfield to use vs Baker, 56 Mo. App. 637; Nevada to use vs Morris, 43 Mo. App. 586; Fruin-Bambrick Co. vs Geist, 37 Mo. App. 509; Adkins vs Railroad, 36 Mo. App. 652; Donovan vs Coles, 33 Mo. App. 161; Heman vs Payne, 27 Mo. App. 481; Eyeran vs Blaksley, 78 Mo. 145; Moberly vs Hogan, 131 Mo. 19; Asphalt Co. vs Ullman, 137 Mo. 543.)

Tax bills not prima facie evidence against persons whose names as owners are omitted. (Farrell vs Rammelkamp, 64 Mo. App. 425; St. Louis vs De Noue, 44 Mo. 136; Kansas City

vs Surety Co., 71 Mo. App. 315.)

Nor do they become so even when afterwards corrected by erasure and substitution by proper officer. (*Stadler vs Roth*, 59 Mo. 400.)

But it is otherwise where the tax bill is amended and properly re-executed by the officials. (*Vleths vs Plannet Co.*, 64 Mo. App. 207, 210) holding it *prima facie* evidence as if originally so issued.)

Tax bills not properly signed are not *prima facie* valid. (*Eyermann vs Payne*, 28 Mo. App. 72.)

Effect of correction, re-execution, amendment and alteration of tax bills. (*Stadler vs Roth*, 59 Mo. 400; *Kafferstein vs Knox*, 56 Mo. 186; *Vleths vs Planet Co.*, 64 Mo. App. 207.)

Tax bills *prima facie* evidence that ground on which work was done was a public street. (*Seibert vs Allen*, 61 Mo. 482.)

Tax bills *prima facie* evidence of existence of contract. (*Ess vs Bouton*, 64 Mo. 105; *Heman vs Payne*, 27 Mo. App. 481.)

Tax bills *prima facie* evidence that city officials have acted properly and that council meeting at which ordinance was passed was properly convened. (*Rutherford vs Hamilton*, 97 Mo. 543; *Barber Asphalt Paving Co. vs Ullman*, 137 Mo. 543.)

Plaintiff not required, in order to make *prima facie* case, to prove date of delivery of tax bills to contractor. (*Adkins vs Quest*, 79 Mo. App. 36.)

Tax bills are not conclusive of their validity. (*Haegeler vs Mallinckrodt*, 3 Mo. App. 329; *Cremer vs Allen*, 3 Mo. App. 545; *Gallaher vs Bartlett*, 64 Mo. App. 258.)

Burden of proof on the party questioning tax bills. (*Wolfort vs St. Louis*, 115 Mo. 139; *Moberly vs Hogan*, 131 Mo. 19; *Asphalt Co. vs Ullman*, 137 Mo. 543; *Gallaher vs Bartlett*, 64 Mo. App. 258.)

Proof of demand as condition precedent to recovery on tax bills. (*Eyermann vs Provenchere*, 15 Mo. App. 256.)

Estoppel.—A void tax bill cannot be made valid by any act of the owner. (*McCormick vs Moore et al*, 134 Mo. App. 669; *Perkinson vs Hoolan*, 182 Mo. 189; *Keane vs Klausman*, 21 Mo. App. 485; *Verdin vs St. Louis*, 131 Mo. 26.)

Property owner estopped from disputing tax bill when. (*Jaicks vs Merrill*, 201 Mo. 91; *Galbreath vs Newton*, 30 Mo. App. 380; *Keane vs Klausman*, 21 Mo. App. 485; *Verdin vs St. Louis*, 131 Mo. 26; *Guinnote vs Egelhoff*, 64 Mo. App. 356; *Bank vs Woesten*, 68 Mo. App. 137; *Hill-O'Meara vs Hutchinson*, 100 Mo. App. 294; *St. Joseph vs Landis*, 54 Mo. App. 315; *St. Joseph ex rel. vs Dillon*, 61 Mo. App. 317.)

Fact that owner knew of jurisdictional defect and did not interfere with letting of contract or doing work will not estop him. (*Cox vs Mignery*, 126 Mo. App. 669.)

Owner of undivided interest is estopped from setting up this fact in reduction of the tax bill when he has held himself out as sole owner. (*City of Louisiana vs McAllister*, 104 Mo. App. 152.)

Judgment.—Judgment on tax bill is one in rem. (*Ross vs Gates*, 117 Mo. App. 237.)

Tax bills can be enforced against real estate only and not by judgment in personam. (*Barber Asphalt Pav. Co. vs St. Joseph*, 183 Mo. 451; *Higgins vs Ausmuss*, 77 Mo. 351; *Carlin vs Cavender*, 56 Mo. 286; *Henschen vs O'Bannon*, 56 Mo. 289; *St. Louis to use vs Bressler*, 56 Mo. 350; *St. Louis to use vs Allen*, 53 Mo. 44; *Neenan vs Smith*, 50 Mo. 525; *Syenite Granite Co. vs Bobb*, 37 Mo. App. 483; *Moberly vs Hogan*, 131 Mo. 19; *Heman Const. Co. vs Loevy*, 179 Mo. 455; *Hill-O'Meara vs Sessinghaus*, 106 Mo. App. 163.)

Personal judgment against property owner for street improvement is void. (*St. Louis vs Contracting Co.*, 202 Mo. 451, l. c. 469.)

Public property held for public uses is not subject to special taxes, nor can a general judgment be rendered against a public corporation, unless the legislative power has clearly so enacted. (*St. Louis vs Brown*, 155 Mo. 560; *Barber Asphalt Co. vs St. Joseph*, 183 Mo. 451, 455, and cases cited; *Clinton ex rel. vs Henry County*, 115 Mo. 557.)

While judgment is in rem. it will not bind persons not parties to the suit. (*Jaicks vs Sullivan*, 128 Mo. 177; *Stadler vs Roth*, 59 Mo. 400.)

When court has jurisdiction judg-

ment not subject to collateral attack. (*Charley vs Kelley*, 120 Mo. 134; *Williams vs Monroe*, 125 Mo. 574; *Karnes vs Alexander*, 92 Mo. 660.)

When suit is on several tax bills, a general verdict is insufficient. (*St. Louis to use vs Allen*, 53 Mo. 44.)

Where court can from data and facts in evidence, separate cost of work improperly included in tax bill from rest, court shall render judgment for remainder. (*Haag vs Ward*, Rec. 186 Mo. 325; *St. Joseph ex rel. vs Dillon*, 61 Mo. App. 317; *Neenan vs Smith*, 60 Mo. 292; *St. Joseph ex rel. vs Wilshire*, 47 Mo. App. 125; *Eyer-mann vs Provenchere*, 15 Mo. App. 256.)

Pro Tanto recovery for improvements. If recovery cannot be had for part of the work on account of invalidity, recovery should be allowed for the part which is valid, when segregation is possible. (*Barber Asphalt Paving Co. vs Ullman*, 137 Mo. 543; *Quest vs Johnson*, 58 Mo. App. 54; *Farrar vs St. Louis*, 80 Mo. 379; *Bank vs Nelson*, 64 Mo. 418; *Johnson vs Duer*, 115 Mo. 366; *Springfield vs Weaver*, 137 Mo. 650; *Haag vs Ward*, Rec. 186 Mo. 325; *Porter vs Paving and Const. Co.*, 214 Mo. 1; *St. Joseph vs Wilshire*, 47 Mo. App. 125; *Dickey vs Porter*, 203 Mo. 1; *Creamer vs Bates*, 49 Mo. 523.)

Reduction of the bill because of failure to furnish the work as called for in the contract and faulty construction may be shown. (*Hill-O'Meara vs Hutchinson*, 100 Mo. App. 294, 297; *Heman vs Franklin*, 99 Mo. App. 346; but see *Gilsonite Construction Co. vs Coal Co.*, 205 Mo. 49.)

Quantum meruit cannot be based on void contract. (*Keating vs Kansas City*, 84 Mo. 415; *Crutchfield vs Warrensburg*, 30 Mo. App. 456.)

There can be no recovery for actual value without proof of such value. (*Gilsonite Construction Co. vs Coal Co.*, 205 Mo. 49; *Porter vs Paving and Construction Co.*, 214 Mo. 1.)

No recovery on quantum meruit when work not completed within the required time. (*McQuiddy vs Brannock*, 70 Mo. App. 535; *Gilsonite Construction Co. vs Coal Co.*, 205 Mo. 49.)

Pro rata recovery where work was done in a manner inferior to that re-

quired by the contract. (*Creamer vs Bates*, 49 Mo. 523; *Hill-O'Meara vs Hutchinson*, 100 Mo. App. 294; *Heman vs Franklin*, 99 Mo. App. 346.)

When case is tried on theory that there has been a compliance with the contract, pro tanto recovery cannot be had. (*Heman vs Larkin*, 108 Mo. App. 392; *Heman Const. Co. vs Loevy*, 179 Mo. 455.)

Interest allowed on tax bill although no demand be made. (*St. Joseph vs Forsee*, 115 Mo. App. 510.)

Interest on judgment. (*Dickey vs Porter*, 203 Mo. 1; *Kansas City ex rel. vs Winner*, 58 Mo. App. 299.)

Judgment of Justice of Peace. (*Hunt vs Hopkins*, 83 Mo. 13; *Karnes vs Alexander*, 92 Mo. 660.)

Judgment may be valid as to some defendants though void as to others. (*Neenan vs St. Joseph*, 126 Mo. 89; *Granite Co. vs Taylor*, 64 Mo. App. 37; *Stotler vs Railroad*, 200 Mo. 107, 1. c. 150; *Walker vs Mills*, 210 Mo. 684.)

Redemption.—Redemption under prior Charter. (*Olmstead vs Tarsney*, 69 Mo. 396; *Corrigan vs Bell*, 73 Mo. 53; *Keating vs Craig*, 73 Mo. 507; *Bryant vs Russell*, 127 Mo. 422.)

Right of mortgagee to redeem. (*Davis vs Evans*, 174 Mo. 307.)

Right of Action to Cancel Tax Bills Issued Against Plaintiff's Property.—(*Porter vs Boyd Pav. Co.*, 214 Mo. 1; *Bayha vs Taylor*, 36 Mo. App. 427; *State ex rel. vs Phillips*, 97 Mo. 331; *Johnson vs Duer*, 115 Mo. 366; *Schibel vs Merrill*, 185 Mo. 534; *Rose vs Trestall*, 62 Mo. App. 352; *Verdin vs St. Louis*, 131 Mo. 26; *Warren vs Barber Asphalt Paving Co.*, 115 Mo. 572; *Skinker vs Heman*, 64 Mo. App. 441; *Longwell vs Kansas City*, 69 Mo. App. 177; *Cox vs Mignery*, 126 Mo. App. 669.)

In suit to cancel tax bills, plaintiff must tender amount he admits to be actually due. (*Porter vs Boyd Pav. Co.*, 214 Mo. 1; *Johnson vs Duer*, 115 Mo. 366.)

Owners of different lots may unite in one equitable proceeding. (*Michael vs St. Louis*, 112 Mo. 610.)

Right to enjoin city to prevent the issuing of a tax bill against plaintiff's property. (*Verdin vs St. Louis*, 131 Mo. 26; *Skinker vs Heman*, 148 Mo. 349.)

And to enjoin enforcement of tax

bills. (Perkins vs Baer, 95 Mo. App. 70.)

Certificate of Purchase.—Giving certificate and having it recorded are nec-

essary to validity of sale. Without these acts subsequent execution and delivery of deed convey no title. (Davis vs Evans, 174 Mo. 307.)

Sec. 25. Tax Bills Mentioned in Section 3 of This Article, Payable in Installments—How Collected—To Bear Interest, When—One Installment Delinquent, All Become Due—Lien of, Assignable.—The common council may, by ordinance, provide that the special tax bills to be issued in payment for improvements mentioned in Section three of this article shall be made payable in four equal installments, and such tax bills when issued shall be payable and collectible as follows: The first installment shall become due and collectible on the thirtieth day of June next succeeding the date of certification to the treasurer of the tax bills. *Provided*, That if such period is less than thirty days after the date of said certification of the tax bills, then the first installment shall become due and collectible on the thirtieth day of June of the next year; the second installment shall become due and collectible in one year, the third installment in two years, and the fourth installment in three years, after the first installment is due and collectible as above mentioned; *Provided, however*, That the owner of the property charged with the payment of such tax bills, or the owner of any interest therein, shall have the privilege of paying the same in full at any time before the expiration of thirty days from the date of said certification; and *provided, further*, That the owner of the property charged with the payment of such tax bills, or the owner of any interest therein, shall have the privilege of paying such tax bills in full at any time by paying interest thereon to a period ninety days after the date of such payment, unless such payment is made within less than ninety days of the maturity of the next installment, and then by paying interest thereon to the date when the next installment becomes due and payable. Such tax bills, including each installment thereof, if not paid in full before the expiration of thirty days from the date when their apportionment and assessment is certified to the City Treasurer, shall bear interest from the date of said certification at the rate of seven per cent per annum, and when any installment becomes due and collectible, as herein provided, interest thereon and on all unpaid installments shall be due and collectible to that date. If any installment of any such tax bills be not paid when due, then all the unpaid installments shall immediately become due and collectible, together with interest thereon at the rate of eight per cent per annum from

the date on which interest has already been paid on said installments. The lien of all tax bills issued under this section shall continue for a period of one year after the date the last installment matures as expressed upon its face, and no longer, unless within such year suit shall have been instituted to collect such tax bill, and unless within ten days after the institution of such suit, notice of the bringing of such suit shall have been filed with the City Treasurer as provided as to other tax bills, in which case the lien of such tax bill shall continue until the termination of such suit and until the sale of the property under execution on the judgment establishing the same, and no default in the payment of any interest or any installment shall operate to diminish the period during which suit may be brought. Such tax bills and liens thereof shall be assignable and shall be of the same force and effect, and suits may be brought thereon in the same manner as on other tax bills issued by the city and all other provisions relating to special tax bills issued pursuant to the authority given in this article shall apply to those issued under this section, excepting so far only as the other provisions of this article conflict with those contained in this section.

See note to Section 24.

Under prior Charter holder of installment tax bills had one year after the last installment became due and payable according to the face of the bill in which to bring suit, even though some installments had been due and payable for more than one year. (*Gilsonite Const. Co. vs Coal Co.* 205 Mo. 49.) See *Barber Asp. Pav. Co. vs Meservey*, 103 App. 186.

Suit by holder of tax bills to have proceeds of damages awarded for the

condemnation of the land applied to payment of the tax bills, is, under provision of prior Charter, begun in time if begun within one year after last installment becomes due, although suit is not begun against the land. (*Ross vs Gates*, 183 Mo. 338.)

Pleading and proof in suit on installment tax bills when certain installments due and unpaid and others not due. (*Jaicks vs Merrill*, 201 Mo. 91.)

Sec. 26. Land Owned by City—Tax Bills—Suit—Personal Judgment.—When the city shall own any tract of land, or hold the title to any land not used as a street, avenue, boulevard, alley, or public highway, which if owned by a private person would be liable to assessment for benefits to pay for any public improvement mentioned in this article, an assessment shall be made against such land, and a special tax bill issued as though such land were the property of a private person, and the city shall pay the amount of that assessment as evidenced by the special tax bill out of the general fund. Suits shall be instituted to enforce the collection of any such tax bill in the same manner and in the same courts as on other tax bills,

and the judgment in any such suit shall be a personal judgment against the city for the amount due on such tax bill, which judgment may be enforced as other judgments against the city, and no such land of the city shall be sold under any such judgment. And no other proceedings or official action on the part of Kansas City shall be necessary in a proceeding for a public improvement in which land owned by the city may be assessed with benefits therefor than though such land had been owned by a private person.

Land Held by Corporation or Association—Tax Bill—When Sale of Land Contrary to Public Policy, Suit—Personal Judgment.—And whenever any land liable to be assessed with special benefits to pay for any public improvement mentioned in this Charter shall be owned by a railroad corporation, cemetery association, county, school district, or any other public or quasi-public corporation, or by any corporation, association, society, person or trustee, such land shall be assessed and a special tax bill issued to evidence the same in the same manner as though the same were the property of a private person, and if a sale of such land to enforce such assessment is contrary to the public policy or the laws of this state, then the amount of such assessment as may be evidenced by the special tax bill shall be paid by such railroad, corporation, cemetery association, school district, county or other public or quasi-public corporation, association, society, person or trustee. Suits shall be instituted to enforce the collection of any such tax bills in the same manner and in the same courts as on other tax bills, and the judgment in any such suit, if for the plaintiff, shall be a personal one against the owner of the land assessed, for the amount due on such tax bill; but no such judgment shall be rendered in any such suit for an amount greater than the value of the land so assessed; and the defendant or defendants in any such suit may, by appropriate pleading, raise the issue of the value of the land so assessed and when that issue is raised the judgment, if any, shall be enforced as other judgments against the judgment debtor, but no such lands shall be sold under such judgments.

See note to Sec. 1 and Sec. 24.

Sec. 27. Lien For Improvements, Invalid by Reason of Irregularities, Etc.—Reassessment.—Whenever the city, by a valid ordinance, shall have authorized the making of any public improvement to be paid for in special tax bills and shall have entered into a valid contract for such improvement, and shall have attempted to levy

an assessment or issue a special tax bill to pay the cost thereof, and said contract shall have been faithfully and fully performed by the contractor, and it shall be made to appear by a judgment of a court of competent jurisdiction or otherwise, that the lien of such assessment or part thereof, or of any or all tax bills evidencing the same, is invalid by reason of any omission, irregularity, defect or invalidity in the acts or proceedings of any of the municipal authorities of the city relating thereto, the Board of Public Works may, at any time within one year after the original issue of the tax bills, reassess any or all of the tracts of land subject to assessment to pay the cost of such improvement, according to the rule of assessment, and in the same manner and with the same effect and evidence the same by like tax bills as is provided in this article for such assessments in the first instance.

See note to Section 1.

See note to Section 24.

Substitution of new tax bills for void ones. Amendments of tax bills irregularly issued or void; mandamus lies to enforce the contractor's right thereto. (*State ex rel. vs St. Louis*, 183 Mo. 230; *State ex rel vs St. Louis*, 211 Mo. 591, l. c. 604; *Dollar Savings Bank vs Ridge*, 79 Mo. App. 26.)

If the original bill was void and recovery defeated on that ground, the power to issue is not exhausted, but a new assessment may be had and new bills may be issued. (*Eyermann vs Provenchere* 15 Mo. App. 256, 262, 270; *Eyerman vs Payne*, 28 Mo. App. 72, 76.)

But if the original bill was not void, but irregular only, a final judgment for defendant will bar another action on the same bill after it has been corrected. (*Weber vs Schergens*, 28 Mo. App. 587; *Eyerman vs Payne*, 28 Mo. App. 72 l. c. 76; *Eyermann vs Scollay*, 16 Mo. App. 498;) but an amendment of the petition after correcting the bill is proper. (*Galbreath vs Newton*, 45 Mo. App. 312.)

A special tax bill, whether void, voidable or merely imperfect, as

issued, may be amended within the time limited for its enforcement. (*Vieths vs Planet Co.*, 64 Mo. App. 207; *St. Joseph vs Forsee*, 110 Mo. App. 237; see as to limitation of tax bills, Sec. 25.)

The particular officer may erase the wrong and insert the true name of the owner, even after expiration of his term. (*Stadler vs Roth*, 59 Mo. 400.) So after expiration of his term he has the right to make proper amendments in other respects. (*Morley vs Weakley*, 86 Mo. 451, changing blocks and lots; *Riley vs Stewart*, 50 Mo. App. 594, 601, issuing three in place of one, where such necessary; *Galbreath vs Newton*, 45 Mo. App. 312, holding that the amendment may be made after the cause has been remanded by the appellate court.) The amendment must be made by the persons in office when the proceedings were had, though their terms have expired. (*Kiley vs Cranor*, 51 Mo. 541; *Cases supra*.)

As to right to amend the tax bill, see also *Eyermann vs Blakesley*, 13 Mo. App 407; *Prendergast vs Richards*, 2 Mo. App. 187.

Sec. 28. Grading, Etc.—When Too Heavy Burden on Benefit District, As Limited in Section 3 of This Article—Benefit Limits May Be Determined by Ordinance.—When in grading or regrading any street, avenue, highway, or part thereof, a very

large or unusual amount of filling in or cutting or grading away of earth or rock be necessary, necessitating an expense of such magnitude as to impose too heavy a burden on the land situate in the benefit district as limited in Section three of this article, and when in grading or regrading, constructing or reconstructing any street, avenue, highway or part thereof, one or more bridges, viaducts, tunnels, subways, cuts or approaches on, along, over or under the same is or are required or needed, the cost of grading or regrading such street, avenue, highway, or part thereof, including the cost of constructing or reconstructing such bridges, viaducts, tunnels, subways and approaches, or any of them, may be charged as a special tax on parcels of land (exclusive of improvements) benefited thereby, after deducting the portion of the whole cost, if any, which the city may pay, and in proportion to the benefits accruing to the said several parcels of land, exclusive of improvements thereon, and not exceeding the amount of said benefit, said benefits to be determined by the Board of Public Works as hereinafter provided, and the limits within which parcels of land are benefited shall in all such specified instances be prescribed and determined by ordinance. If the Common Council shall find and declare in the ordinance providing for the doing of the work above described that a very large or unusual amount of filling in or cutting or grading away of earth or rock be necessary, necessitating an expense of such magnitude as to impose too heavy a burden on the land situated in the benefit district as limited in Section three of this article, or that in grading or regrading, constructing or reconstructing any street, avenue, highway, or part thereof, one or more bridges, viaducts, tunnels, subways, cuts or approaches on, along, over or under the same is, or are required or needed, the finding and declaration in said ordinance shall be final and conclusive as to all such matters.

Public Works Shall be Provided For By Ordinance—Proceedings in Circuit Court Against Owners—Petition to Contain, What.—The public work described above shall be provided for by ordinance, and the city may provide that after the passage of the ordinance and after an approximate estimate of the cost of the work shall have been made by the Board of Public Works, the city shall file a proceeding in the Circuit Court of Jackson county, Missouri, in the name of the city, against the respective owners of land chargeable under the provisions of this section with the cost of such

work. In such proceeding the city shall allege the passage and approval of the ordinance providing for the work, and the approximate estimate of the cost of said work; and shall define and set forth the limits of the benefit district, prescribed by the ordinance, within which it is proposed to assess property for the payment of said work. The prayer of the petition shall be that the court find and determine the validity of said ordinance, and the question of whether or not the respective tracts of land within said benefit district shall be charged with the lien of said work in the manner provided by said ordinance.

Process—What Parties May Offer in Evidence.—Service of process in such proceeding shall be governed by the provisions of Section eleven (11) of Article thirteen (XIII) of this Charter, relating to service of notice and summons in proceedings for the ascertainment of benefits and damages for the condemnation of lands for parks and boulevards. In such proceedings, the city shall have the right to offer evidence tending to prove the validity of said ordinance, and said proposed lien against the respective lots, tracts and parcels of land within said benefit district sought to be charged with such lien; and the respective owners of lots, tracts and parcels of land within said benefit district shall have the right to introduce evidence tending to show the invalidity or lack of legality of said ordinance, and said proposed lien against the respective lots, tracts, and parcels of land owned by each respective defendant; and the court shall have the right to determine the question of whether or not the said lots, tracts and parcels of land owned by each defendant should be charged with such lien.

Trial—Judgment.—The trial of such proceedings shall be in accordance with the Constitution and Laws of the State, and the court shall render judgment either validating such ordinance, and proposed lien against the lots, tracts and parcels of land within said benefit district or against such lots, tracts, or parcels of land as the court may find legally chargeable with the same, or the court may render judgment that such ordinance or proposed lien are, in whole or in part, invalid and illegal.

Appeal—What Court Shall Determine.—Any appeal taken from such judgment must be taken within ten days after the rendition of such judgment, or if a motion for a new trial be filed

therein, then within ten days after such motion may be overruled or otherwise disposed of; but in all other respects the rules covering such appeal shall be the same as provided by Section eighteen (18) of Article thirteen (XIII) of this Charter.

No appeal, or After Determination of, City May Enter Into Contract, Etc.—If no appeal shall be taken, or after the determination of such appeal, the city may enter into a contract with the successful bidder to whom such work may be let; and, after the work under such contract shall have been fully completed, the estimate of the cost thereof, and the apportionment of the same against the various lots, tracts and parcels of land within the benefit district, shall be made by the Board of Public Works according to the assessed value thereof, exclusive of improvements, with the assistance of the City Assessor as provided in Section three of this article, and all of the provisions of Section three of this article relating to the apportionment of special assessments, and the levy, issue and collection of special tax bills as in grading proceedings as in said section specified, shall apply to special tax bills issued pursuant to this section, except that said tax bills may be made payable in not to exceed ten annual installments; the number of installments, and the times when payable to be determined by the Common Council on the recommendation of the Board of Public Works, such determination to be determined in the ordinance of the Common Council in which said work is authorized and the proceedings thereof instituted.

Meaning and Intent of This Section.—Nothing in this section stated shall in anywise affect, modify or change the provisions of the previous sections of this article, or in any manner affect or change the proceedings and remedies therein set forth for the doing of public work and the payment therefor by the issue of special tax bills; the intention of this section being to provide an independent and separate method of public improvements made under the provisions of this section.

ARTICLE IX.

VACATING HIGHWAYS AND PUBLIC PLACES.

Section.

1. Streets, Alleys and Additions—Control of—Vacating.
2. Vacating Streets, Etc.—Petition—Statements in—Filing of—Notice—Expenses.
3. Opposition to Petition in Writing—Ordinance to Vacate—Written Consent of Property Owners Necessary.
4. Land Vacated—Title.
5. Owner of Addition—May Petition to Vacate—Petition to be Filed—Notice.

Section.

6. Opposition to Petition—Vacate by Ordinance—Proceedings—Consent of Property Owner.
7. Ordinance to Vacate—What Vote to Pass.
8. Ordinance to be Acknowledged—Filed for Record.
9. Vacation Not to Become Final Until Damage Paid—Damage, How Assessed—Proceedings Dismissed, When—Appeal.

Section 1. Streets, Alleys and Additions—Control of—Vacating.—The city shall have exclusive control of all its public highways, streets, avenues, alleys and public places, and shall have exclusive power to vacate or abandon any public highway, street, avenue, alley or public place, or any part thereof, and to vacate any platted addition or subdivision of land or part thereof within the corporate boundaries of the city, provided that no such vacation or abandonment shall take place except by ordinance.

R. S. 1899, Sec. 6408. R. S. 1909, Sec. 9752.

Charter confers power upon Council to vacate streets and alleys. It is for council and not courts to say when power shall be exercised. Though city has right to vacate streets when and where its legislative body shall deem best the power must be exercised subject to the constitutional provision that private property shall not be taken or damaged for public use without just compensation and city may be liable for damages resulting to abutting property owners. (Heinrich vs St. Louis, 125 Mo. 424, 1 c. 427; Christian vs St. Louis, 127 Mo. 109; Knapp, Stout & Co. vs St. Louis, 156 Mo. 343; Kansas City vs Hyde, 196, Mo. 498.)

Although purpose of ordinance is to

aid private interest it is not void in absence of fraud or combination to injure if there is due regard for public interests. (Glasgow vs St. Louis, 107 Mo. 198, 1 c. 203-4; Realty & Inv. Co. vs Deere, 208 Mo. 66, 1 c. 87.)

Since there is adequate remedy at law for damages city cannot be enjoined from vacating street. (Christian vs St. Louis, 127 Mo. 109.)

Owner of abutting lot may enjoin the placing of obstructions in a street or alley not properly vacated if he will suffer damage different in kind from that of general public, but one whose lot does not abut upon such street cannot maintain injunction. (Realty & Investment Co. vs Deere & Co., 208 Mo. 66.)

Ordinance declaring street or alley vacated is not sufficient. Abutting owners have property rights in streets and alleys which cannot be taken from them by mere passage of ordinance declaring it vacant.

If street or alley is vacated and public continue to use it for ten years with knowledge and consent of city and abutting owners, it is again constituted public street or alley. (*Mitchell vs Ry.*, 116 Mo. App. 81, l. c. 88.)

City cannot extinguish rights of public by a conveyance to an individual of part or all of a street as private property. (*St. Louis vs Mo. Pacific Ry. Co.*, 114 Mo. 13, l. c. 24.)

City is not estopped from asserting claim under dedication by including dedicated land in ordinance and condemnation proceedings. (*Moses vs Dock Co.*, 84 Mo. 242, l. c. 246.)

Statute of limitation does not run against city unless adverse possession began prior to 1865. (*Williams vs St. Louis*, 120 Mo. 403; *Wright vs City of*

Doniphan, 169 Mo. 601; *State ex rel. vs Road Co.*, 207 Mo. 85.)

Failure to grade or improve street does not affect public right thereto. (*St. Louis vs Mo. Pacific Ry. Co.*, 114 Mo. 13, l. c. 24.)

When dedication by deed or other writing shows intention to convey unlimited fee for particular purposes title does not revert on cessation or diversion of use but equity may compel specific execution of trust. (*Hand vs St. Louis*, 158 Mo. 204; *Goode vs St. Louis*, 113 Mo. 257.)

Land deeded to city on condition reverts to grantor on failure to comply with such condition. (*Clarke vs Brookfield*, 81 Mo. 503; *Baker vs St. Louis*, 75 Mo. 671.)

As to whether provision in grant is a condition or a covenant and whether an action to declare a forfeiture is necessary, see (*St. Louis vs Wiggins Ferry Co.*, 88 Mo. 615; *Studdard vs Wells*, 120 Mo. 25; *Railway Co. vs Frowein*, 163 Mo. 1.)

See Article X, Section 6.

Sec. 2. Vacating Streets, Etc.—Petition—Statements In—Filing Of—Notice—Expenses.—Any person or corporation owning any property fronting on any public highway, street, avenue, alley or public place or part thereof, proposed to be vacated, may petition the Common Council therefor. Such petition must give a distinct description of the part of the public highway, street, avenue, alley or public place sought to be vacated, and also the names of the persons or corporations owning or claiming the property fronting thereon and be verified by affidavit. Said petition shall be filed with the City Clerk at least twenty days previous to any action being taken thereon by the Common Council, and notice of the pendency of such petition shall be given for the same length of time in the newspaper then doing the city printing. The person or corporation seeking such vacation shall, at the time of filing the petition for vacation, deposit with the City Comptroller a sum sufficient, in the opinion of the Comptroller, to cover all costs and expenses which the city may incur by reason of said proceedings.

Petition should state names of persons owning or claiming property fronting on the street proposed to be

vacated. (*City of Marshall vs Anderson*, 78 Mo. 85.)

See Article 1, Section 1.

Sec. 3. Opposition to Petition in Writing—Ordinance to Vacate—Written Consent of Property Owners Necessary.—If oppo-

sition be made in writing to such petition within said twenty days by any person or corporation interested in the vacation of such property, no action shall be taken by the Common Council on such petition before the expiration of an additional twenty days. Subject to the provisions of this article, the Common Council may, by ordinance, vacate the property mentioned and described in said petition aforesaid with such restrictions as it may deem for the public good; but no such ordinance shall be passed unless the consent, in writing, of the persons or corporations owning three-fourths of the front feet of the property fronting on that part of the public highway, street, avenue, alley or public place to be vacated, acknowledged as deeds conveying real estate in this State are required to be acknowledged in order to entitle them to be recorded, shall have been obtained to such vacation, and filed with said petition in the City Clerk's office.

Sec. 4. Land Vacated—Title.—The property or part thereof so vacated, if it be a lot or public square, shall belong to the persons or corporations who may have the title thereof according to law; and if same be a public highway, street, avenue, or alley, the same shall vest in the persons or corporations owning the property on each side thereof in equal proportions according to the length or breadth of such land as the same may border thereon and as the titles to such bordering lands may be held by the said owners thereof respectively.

See note to Article 3, Sec. 1, Cl. 11.

The owner of premises abutting on a public street is presumptively the owner of the fee to the center thereof subject to the easement to which the land is devoted. This is true although one abutting owner dedicate the entire street by plat. When street is vacated title vests in persons owning the property on each side thereof

in equal proportions. (Thomas vs Hunt, 134 Mo. 392; Mitchell vs Railroad, 116 Mo. App. 81, l. c. 88.)

Conveyance of city lot bounded on street always carries fee, subject to public easement, to center of street, unless there be express reservation to the contrary. (Baker vs St. Louis, 7 Mo. App. 429, approved s. c. 75 Mo. 671.)

Sec. 5. Owner of Addition—May Petition to Vacate—Petition to Be Filed—Notice.—The owner of any lot in any platted addition or subdivision within the corporate boundaries of the city may petition the Common Council for the vacation of the said platted addition or subdivision or any part thereof. Said petition must give a distinct description of the part of the addition or subdivision to be vacated, and also the names of all legal owners of all lots contained in such addition or subdivision and be verified by affidavit. Said petition shall be filed with the City Clerk at least twenty days

previous to any action being taken thereon by the Common Council, and notice of the pendency of such petition shall be given for the same length of time in the newspaper then doing the city printing.

See Art. XVII, Sec. 13 and note.

Sec. 6. Opposition to Petition—Vacate By Ordinance—Proceedings—Consent of Property Owner.—If opposition be made in writing to such petition within said twenty days by any person or corporation interested in such vacation, no action shall be taken by the Common Council on such petition before the expiration of an additional twenty days. The Common Council may, by ordinance, vacate such platted addition or subdivision, or part thereof, and upon such vacation being made, such plat and all dedications to public use made by or consequent upon such plat shall within and as to the part of such addition or subdivision so vacated, *ipso facto* cease and determine, and become and be of no effect, but no such ordinance shall be passed unless the consent in writing of the legal owners of all lots contained in such addition or subdivision acknowledged as deeds conveying real estate in this State are required to be acknowledged in order to entitle them to be recorded, shall have been obtained to such vacation and filed with said petition in the City Clerk's office.

Sec. 7. Ordinance to Vacate—What Vote to Pass.—No ordinance vacating any public highway, street, avenue, alley, public place or platted addition or subdivision, or part thereof, shall be passed except by at least two-thirds affirmative vote of the full authorized membership of each house of the Common Council. If any such ordinance be returned without the approval of the Mayor, and with his objections, an affirmative vote of at least three-fourths of the authorized membership of each house of the Common Council shall be necessary to the passage of such ordinance notwithstanding the objections of the Mayor thereto.

Sec. 8. Ordinance to Be Acknowledged—Filed For Record.—Every ordinance vacating any public highway, street, alley, public place, or platted addition or subdivision, or part thereof, shall be acknowledged by the City Clerk as deeds are acknowledged as aforesaid, and such ordinance so acknowledged and the consents of property owners herein required shall be filed for record in the Recorder's office in Jackson County, Missouri.

Sec. 9. Vacation Not to Become Final Until Damage Paid.—The Common Council may provide in any ordinance for vacating

any highway, street, avenue, alley, public place, or plat that such vacation shall not become final and absolute until the damage which may be occasioned thereby, if any, has been ascertained and paid in the manner hereinafter provided.

Damage, How Assessed.—Whenever private property shall be so disturbed or damaged by the proposed vacation as to entitle the owners thereof to remuneration or damages under the Constitution of the State of Missouri, the ordinance which shall order such vacation shall also prescribe and determine the limits within which private property is deemed benefited by the proposed vacation. Such benefited district shall not, however, include any property other than that abutting on the street, alley or public place proposed to be vacated, the owners of which abutting property have signed the petition for such vacation. The Mayor shall cause a certified copy of said ordinance to be filed in the Circuit Court of Jackson County, Missouri, at Kansas City, or with the clerk thereof, and said court shall fix a day and place for assessing the damages and benefits arising from the proposed proceeding, and such damages and benefits shall be ascertained and assessed in the manner and by the procedure provided in Article VII of this charter for assessing damages and benefits arising from grading and regrading streets; *Provided, however,* That at any time before final judgment, the owners of the property abutting on the street, alley, highway, or public place proposed to be vacated who shall have signed the petition for said vacation may withdraw therefrom, and, upon filing such withdrawal in the office of the City Clerk, the City Counselor shall dismiss the said proceedings, and the same shall be *ab initio* null and void.

Proceedings Dismissed, When.—Unless all the owners of the property against which assessments of benefits have been made in said proceedings shall, within twenty days after the rendition of the verdict, pay such assessments to the clerk of the Circuit Court of Jackson county, Missouri, for the use of the parties entitled thereto, the city shall cause said proceedings to be dismissed and said ordinance shall thereupon be *ab initio* null and void.

Appeal.—Any party aggrieved by said verdict may appeal therefrom in the same manner and with like effect as is provided by Article VII of this charter from judgments rendered by the Circuit Court.

ARTICLE X.

BOARD OF PUBLIC WORKS.

Section.

1. Board, How Constituted—Present Board to Constitute First Board of Public Works—Number of Board—Term of Office.
2. Salaries of Board—President of, His Duties.
3. Meetings of Board—Quorum.
4. City Engineer—Qualifications of—Oath of—Department of Engineering—Head of—Duties of.
5. Department of Street Repairs—Superintendent of—His Duties—Shall Appoint Subordinates.
6. Plats to be Approved by Board Before Recording—Taxes on Land Platted, Must be Paid Before Approval—Maps and Plats Acknowledged and Recorded—Grade of Streets to Be Established—No Damages to be Paid Proprietor—Re-grading.
7. Ordinance Not Passed Unless Endorsed by Board of Public Works.
8. Board shall Control Grading and Paving of Streets—Alleys—Public Grounds—Repairing, Cleaning and Sprinkling—Bridges, Water Courses, Etc.—Gas and Water Pipes—Poles—Buildings—Before Street Paved, Pipes, Etc., to be Laid—This Article, How Construed.
9. Public Utilities—Control Of.
10. Board to Devise System of Levees, Dikes, Drains, Etc.

Section.

11. Other Powers of Board—Rules and Regulations.
12. Department of Street Cleaning—Commissioner of—Control and Management of Cleaning Streets.
13. Commissioner—Duties—To Appoint Deputy and Employees—To Keep Record.
14. Commissioner of Street Cleaning—Other Duties.
15. Districts and Boundaries—Fund—Apportioned.
16. Appropriation for Cleaning Streets.
17. Commissioner—Authorized to use all Water Necessary.
18. In Emergency, Commissioner May Hire Extra Men and Teams.
19. Contract for Cleaning Street—Lowest Bidder—How Paid.
20. Commissioner Authorized to Adopt Rules.
21. Carts and Wagons—Size of—Deposit of Trash—Violations of Ordinance—Complaint—Commissioner's Power to Arrest.
22. Department Uniform, Badges, Etc.
23. Duty of Owners of Property—Cleaning of Sidewalks, Etc.
24. Repairs to Expedite Cleaning.
25. Board Shall Keep Record—Accounts—Classified—Report to Mayor, Etc.

Sec. 1. Board, How Constituted—Present Board to Constitute First Board of Public Works—Number of Board—Term of Office.—There is hereby established within the city a department to be known as the Board of Public Works, to consist of four members until the third Monday in April, 1910. The four members of the Board of Public Works of Kansas City, in office at the time this charter goes into effect, shall constitute the first Board of Public Works under this charter and shall serve until the third

Monday of April, 1910, but shall have no powers or duties except as provided in this Charter. On and after the third Monday of April, 1910, the Board of Public Works shall consist of only three persons, who shall be appointed by the Mayor, by and with the advice and consent of the Upper House of the Common Council, to serve, one for one year, one for two years, and one for three years from the date of their appointment. Each year thereafter the Mayor shall in like manner appoint one person as the successor of the member whose term of office expires in that year to serve as such member for three years.

Sec. 2. Salaries of Board—President of, His Duties.—Each member of said Board shall receive such salary as may be prescribed by ordinance. Immediately after qualification at the beginning of the fiscal year of 1910 and each year thereafter, said Board shall elect one of its members president, for a term of one year, and one of his duties shall be to attend all meetings of the Common Council, and at the request of any member thereof, to give such information concerning the business of the Board as may be required of him.

Sec. 3. Meetings of Board—Quorum.—The board of public Works shall meet at its office at least three times each week to transact such business as may properly come before it. Two members of said Board shall constitute a quorum.

Held that provision in previous Charter that board meet once a week at office of board is inconsistent with thorough personal superintendence

and indicates intention to give authority to only supervise. (State ex rel. vs May, 106 Mo. 488, l. c. 508.)

Sec. 4. City Engineer—Qualifications Of—Oath Of—Department of Engineering—Head Of—Duties Of.—Said board shall appoint a City Engineer, who shall be a civil engineer and a person well skilled in the science of engineering and the practical application thereof. He shall, in addition to the oath prescribed for city officers, take an oath that he is not and will not be during his continuance in office, directly or indirectly interested in any contract with the city, or in any public work. The Board shall establish a department of engineering and the City Engineer shall be the head thereof and shall have the sole executive control of said department, subject to the rules and regulations prescribed by the Board, and shall hold his position at the pleasure of the Board. He shall appoint and

discharge the employes and subordinates in said engineering department, and shall carry into effect the public work designated by the Board to be done by the engineering department, and shall perform such other duties, not inconsistent herewith, as may be prescribed by ordinance. The Board shall appoint such persons not employed in the engineering department as may be necessary to transact the business and perform the duties devolving upon the Board under the provisions of this Charter. Upon the taking effect of Article XV of this Charter, said Board and said engineer shall, in making said appointments, and in all other respects, conform to the provisions, rules and regulations of the civil service board.

The board has general supervision and control of all public works. The City Engineer is a mere employe of the board. (*Kansas City vs McDonald*,

73 Mo. App. 439, l. c. 444; see *State ex rel. vs May*, 106 Mo. 488; *State ex rel. vs Gray*, 91 Mo. App. 438.)

Sec. 5. Department of Street Repairs—Superintendent of—His Duties—Shall Appoint Subordinates.—The board shall establish a department of street repairs. It shall appoint a superintendent of repairs who shall have the sole executive control of said department, subject to the rules and regulations prescribed by the Board. Except as otherwise provided by this Charter, or by ordinance, it shall be his duty to have charge of the repairs of all streets and alleys, to repair all sidewalks and curbing, to construct all street crossings, and to repair the same, to repair all bridges and viaducts required to be kept in repair by the city; he shall have charge of the repairs of sewers and catch-basins, and the supervision of the erection of all telegraph and electric light poles; he shall also have the supervision of all excavations and fillings, made for the laying of gas and water pipes or for the repairing of sewers or for any other purpose whatever, in the streets and alleys of the city; he shall have charge and control of all implements and teams employed in such work, and shall perform such other duties not inconsistent with the provisions of the Charter as may be required by the Board of Public Works or by ordinance. The superintendent of repairs shall appoint and discharge all employes and subordinates in said department, and upon the taking effect of Article XV of this Charter relating to civil service, he shall appoint and discharge appointees and subordinates subject to the provisions of said Article, and the rules made pursuant thereto. He shall hold his position at the pleasure of the Board.

Superintendent of streets under former Charter was held to be officer and not mere employe. (State ex rel. vs May, 106 Mo. 488; see State ex rel. vs Knott, 207 Mo. 167; State ex rel.

vs Gray, 91 Mo. App. 438.)

For duties, obligations and liability of city growing out of repairs and other work in streets, see Article III, Section 1, Cl. 11.

Sec. 6. Plats to be Approved by Board Before Recording—Taxes on Land Platted, Must Be Paid Before Approval.—After the taking effect of this Charter no plat of any addition to the city or in the city or of any subdivision of lands within the city, shall be recorded or be of any validity unless before such record, the approval of the Board be endorsed thereon. Before approving any such plat the Board of Public Works shall require that there be filed in its office a certificate from the proper person and authorities that all taxes and all liens and incumbrances of every sort on that part of the land dedicated or conveyed for public use have been satisfied of record.

Maps and Plats Acknowledged and Recorded—Grade of Streets to be Established—No Damages to be Paid Proprietor—Regrading.—Plats and maps of additions to the city or of subdivisions of land in the city, shall be made according to the general law of the state in force at the time. Such map or plat shall be acknowledged by the proprietor before some court or officer authorized by law to take the acknowledgment of conveyances of real estate, and recorded in the office of the recorder of deeds in Jackson county; Provided, *however*, that before any such plat shall be approved by the Board of Public Works, the grade of the streets, alleys, avenues and public highways designated thereon shall be established by ordinance, and the said approval of such Board shall recite the number and date of approval of said ordinance. After any street, avenue, alley or public highway shall be dedicated by any such map or plat or by a conveyance to the city of any land for such use, and the grades of the streets, alleys and public highways thereon shall be established as aforesaid, the city shall have the right to grade the same to the grade so established, and shall have an easement upon the land abutting on the said streets, avenues, alleys and public highways permitting the city the right to use so much of said lands as will enable the city to provide adequate support for said streets, avenues, alleys and public highways in case of any fill in such grade necessitating such support. In lieu of such easement retaining walls may be constructed at their own expense by the owners or proprietors of said abutting

lands according to plans approved by the Board of Public Works and under its supervision and control. Said walls may be so constructed at the time said grading is done or at any time thereafter in the discretion of said owner or proprietor. The city shall have the right to grade or otherwise improve the said streets, avenues, alleys and public highways, without making compensation for damages therefor to other lands of the proprietor making the map or plat, or to other lands of the maker of the conveyance, and it shall be deemed and taken by all courts for all purposes, that just compensation was made for such damages and for said easements when such map or plat or conveyance was made, or that the right to the same was released, so that neither the original proprietor nor anyone holding under such proprietor, shall have a right to compensation for such damages; *Provided, however,* That if, after the city shall have established the grade of any such street, avenue, alley or public highway as aforesaid, and the city shall thereafter change such grade and re-grade the same, just compensation shall be made for damages resulting to any property from such change of grade and regrading.

For dedication of land to public use otherwise than by formal plat see Article III, Section 1, Cl. 11.

For condemnation of land for public use, see Article VI, State Laws, Chap. 142, R. S. 1899. R. S. 1909, Chap. 97.

No other than the owner of the land in fee can dedicate it to public use. (*K. C. Milling Co. vs Riley*, 133 Mo. 574; but see *Longworth vs Sedevic*, 165 Mo. 221.)

Wife must join in plat of her lands. (*City of Marshall vs Anderson*, 78 Mo. 85.)

Whether acceptance of plat necessary. (*Friend vs Porter*, 50 Mo. App. 89; *St. Louis vs University*, 88 Mo. 155; *Hill vs Sedalla*, 64 Mo. App. 494; *Downend vs Kansas City*, 71 Mo. App. 529, 1. c. 533.)

Approval of plat does not constitute acceptance of streets thereon laid out, nor an act of jurisdiction over them nor impose obligation on city to keep in repair. (*Downend vs Kansas City*, 156 Mo. 60.)

Approval of plat by city authorities, a ministerial duty which may be enforced by mandamus. (*State ex rel. vs Chase*, 42 Mo. App. 343; *Downend vs Kansas City*, 156 Mo. 60;) Contra, that it is an act judicial in its nature

over which the courts will not sit in review, and for the exercise of which to damage of other property owners an action will not lie. (*Funke vs St. Louis*, 122 Mo. 132.)

Dedicators of land for common, remain for all other purposes its owners. (*Cummings vs St. Louis*, 90 Mo. 259.)

Dedication of street on condition that dedicator's land be exempt from assessment for extension thereof, is of no effect. (*St. Louis vs Meier*, 77 Mo. 13.)

Conveyance of lot bounded by street, carries fee, subject to public easement, to center of street. (*Baker vs St. Louis*, 75 Mo. 671, s. c. 7 Mo. App. 429.)

If lands adjoining city are platted as an addition thereto, filing of plat vests title to streets in city, but does not render such property subject to city taxation. (*Town of Cameron vs Stephenson*, 69 Mo. 372; see *St. Louis vs St. Louis University*, 88 Mo. 155.)

City not liable for damages for injuries due to defect in part of street outside of city. (*Stealey vs Kansas City*, 170 Mo. 400.)

Contract for sale of town lot before plat was made out, acknowledged and

deposited in Recorder's office, held absolutely void. (*Downing vs Ringer*, 7 Mo. 585; *Tri-State Amusement Co. vs Amusement Co.*, 192 Mo. 404, l. c. 415, 424; *Roeder vs Robertson*, 202 Mo. 522, l. c. 537.)

Failure to record plat will not defeat title of innocent purchaser of lot.

(*Rollins vs McIntire*, 87 Mo. 496.)

Liability of city in changing grade of streets, see Article III, Section 1, Cl. 11, note.

City may change grade whenever it answers best for public purpose. (*South Highland Land Impr. Co. vs Kansas City*, 100 Mo. App. 518.)

Sec. 7. Ordinance Not Passed Unless Endorsed by Board of Public Works.—No ordinance establishing or re-establishing the grade of any street, avenue, alley or public highway, or establishing any sewer district, or providing for the construction of any public, district or joint-district sewer, shall be passed by the Common Council, unless the same has endorsed thereon a certificate of approval by the Board of Public Works.

(*Savings Bank vs Ridge*, 183 Mo. 506, l. c. 523, 524, s. c. 79 Mo. App. 26.)

Sec. 8. Board Shall Control Grading and Paving of Streets—Alleys—Public Grounds—Repairing, Cleaning and Sprinkling—Bridges, Water Courses, Etc.—Gas and Water Pipes—Poles—Buildings.—Said board shall, in all cases not in this Charter, otherwise provided, inaugurate and control the grading and paving of all streets, avenues, alleys and public grounds; the cleaning, sprinkling, repairing and improving of all streets, alleys, avenues and public places; the construction, altering and repairing of all bridges, culverts, receiving basins, sewers, drains and water courses under the jurisdiction or control of said city; the laying of gas and water pipes through any street or alley; and the issuing of permits for connecting with gas, water or sewer pipe, and for the erection of gas lamps, telegraph poles, electric light poles, and street car poles; the laying down and repairing of all sidewalks, cross-walks, curbing and guttering; the construction of all vaults under any portion of said streets; the construction, repair, alteration and removal of all buildings, houses, barns, stables, fences and other similar improvements upon lots and lands within the limits of the city, and the issuing of permits therefor; the construction and repair of the city hall, and all other public buildings of the city, and shall in all cases (where no other provision is made in this Charter for so doing), supervise the doing of all other public work and improvements provided for in this Charter, and of all other public work and improvements not specifically assigned by this Charter to some other authority.

Before Street Paved, Pipes, Etc., to Be Laid.—Said board may require that before any street be paved the sewer, water and gas pipes be laid therein, and connection laid to the curb in front of each lot.

This Article, How Construed.—Nothing in this article contained shall be so construed as to in any wise affect the exercise by the Board of Park Commissioners, or by the Board of Fire and Water Commissioners, of the powers conferred and duties imposed on either of said boards by this Charter.

Board of public works is vested with authority of supervising, grading and paving of streets, avenues, alleys and public grounds of city. (South Highland Land & Improvement Co. vs Kansas City, 100 Mo. App. 518, 1. c. 522.)

The Board has general supervision and control of all public works. (Kansas City vs McDonald, 73 Mo. App. 439, 1. c. 444; Section 11, this article. Savings Bank vs Ridge, 183 Mo. 506, 1. c. 523, 524, s. c. 79 Mo. App. 26.)

Grading, paving, etc., and other con-

trol of streets, etc., see Article III, Section 1, Cl. 11, and note.

Bridges, culverts, sewers, drains, gutters, etc., see Article III, Section 1, Cl. 13, and note.

Telegraph poles, electric light poles, etc., see Article III, Section 1, Cl. 11, and note.

Construction of vaults, under streets, see Article III, Section 1, Cl. 11, and note.

Removal of buildings, barns, stables, etc., see Article III, Section 1, Cl. 19 and Cl. 16, and notes thereto.

Sec. 9. Public Utilities—Control Of.—Whenever the city shall construct or acquire in any way the ownership, use, occupation or control of any gas, electric light, heat, power or refrigeration plant or works, or any other kind of works for the purpose of serving the city or its inhabitants, or any other person or corporation with light, heat, refrigeration or power, and whenever the city shall construct, purchase or in any wise acquire any subways, tunnels, bridges or viaducts, conduits, wharves, tracks, depots, terminals, transportation lines, telegraph or telephone lines, or other means of communication or transportation or any other property within the class of public utilities, the same shall be managed or controlled by the Board of Public Works, under such regulations as the city may, by ordinance, from time to time provide.

Sec. 10. Board to Devise System of Levees, Dikes, Drains, Etc.—The board shall also have the power, and it shall be its duty, when any levee district has been established by the Common Council, to devise and adopt a system of levees, dikes, drains and other works for the protection of all lands within such districts from floods or overflows, and select and designate lands and rights-of-way to be used

and appropriated for such levees and other works, and to carry out all the powers and duties imposed upon it in Article XII of this Charter.

Sec. 11. Other Powers of Board—Rules and Regulations.—

Said board shall also exercise such other powers and perform such other duties in the superintendence of public works, improvements and repairs constructed by authority of the Common Council or owned by the city, not inconsistent with the provisions of this Charter, nor with the powers of the city engineer, as may be prescribed by ordinance. Said board shall make all necessary rules and regulations for the government of its department not inconsistent with this charter or any ordinance of the city.

See Section 8 of this article.

Sec. 12. Department of Street Cleaning—Commissioner of—Control and Management of Cleaning Streets.—

The Board of Public Works shall establish under its supervision a department of street cleaning, and shall appoint a commissioner of street cleaning, who shall have the control and management of such department. The commissioner of street cleaning shall have direction and control of the sweeping and cleaning of the streets of the city, including all avenues, alleys and highways and public grounds of the city, except such as are under the control and management of the Board of Park Commissioners, and shall have the direction and control of the removal or other disposition of street sweeping and other refuse and rubbish from the streets, alleys, avenues, highways and public places, and of the removal of snow and ice from the leading thoroughfares and from such other streets within the city as may be found practicable.

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| City is liable for negligence of employee engaged in cleaning streets. (Young vs Railroad, 126 Mo. App. 1.) | And for assault by employee so engaged. (Barree vs Cape Girardeau, 197 Mo. 382.) |
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Sec. 13. Commissioner—Duties—To Appoint Deputy and Employees—To Keep Record.—

The commissioner of street cleaning may appoint, subject to the civil service laws, rules and regulations contained in or provided for by this Charter, one deputy, and such clerks, district superintendents, foremen, employes and laborers as may be provided by ordinance. He shall organize a sufficient street cleaning force, with such ranks, grades and divisions as he may deem necessary for the effective cleaning of the streets and within the limits

of the funds at the disposal of the street cleaning department. He shall keep a record of all of his expenditures and of all employes under him, and of their wages, and shall report the same to the Board of Public Works at the end of each week.

Sec. 14. Commissioner of Street Cleaning—Other Duties.—

It shall be the duty of the commissioner of street cleaning to make such allotment and designation of the areas to be covered and the duties to be performed by each employe and all of the different employes of the department as he shall deem expedient, and he may transfer one or more of such employes from one district or section of the city to another, or temporarily employ all or any part of said employes in a particular section.

Sec. 15. Districts and Boundaries—Fund—Apportioned.—

The territory within the limits of the city, for the purposes of street cleaning, shall be at all times divided into the same number of districts, with the same boundaries for each district as provided in this Charter for the division of the city into park districts; and the funds in this article provided for the use of the department of street cleaning, shall be expended in each district as nearly as possible in proportion to the assessed valuation of the real property in such district as shown by the books of the City Assessor. The commissioner of street cleaning shall appoint a superintendent in each district, who shall be responsible to the commissioner for the cleanliness of the streets in his respective district, and for the faithful performance of the duties of all employes under him. The Common Council shall provide for the office and general headquarters of the commissioner at the city hall, and may provide for district headquarters in each district hereby established, which shall be the headquarters of the district superintendent and the employes for such district.

Sec. 16. Appropriation For Cleaning Streets.—There shall be appropriated annually for the use of the department of street cleaning, for the purpose of sweeping and cleaning the streets as provided herein, a sum of money equal to seven per cent of the total revenues of the city exclusive of any sums raised from special assessment or special taxes on real estate. It shall be the duty of the Common Council to make monthly appropriations to said department to pay the expenses of said department, including wages, salaries, appliances and supplies, within the limits of said seven per cent of the total revenues

of the city, above provided. The Common Council may also appropriate to the use of such department such additional sums out of the general fund of the city as may be necessary for the efficient sweeping and cleaning of the streets and the carrying out of the purpose of this article. It shall be the duty of the Board of Public Works to include in its annual estimate to the comptroller, at the beginning of each fiscal year, such an amount in addition to the seven per cent herein provided for as the said board may deem necessary for the use of the department of street cleaning. No funds appropriated to the use of the department of street cleaning shall be used for any other purposes than those specified in this article.

Sec. 17. Commissioner—Authorized to Use All Water Necessary.—The commissioner of street cleaning is hereby authorized to take and use from the hydrants and water pipes of the city, under such reasonable rules and regulations as may be prescribed by the Board of Fire and Water Commissioners, all water which he may deem necessary for the purpose of washing or otherwise cleaning the streets of the city, and for all other uses of his department, and no charge or debit shall be made on account thereof against the funds appropriated for the use of said department of street cleaning.

Sec. 18. In Emergency, Commissioner May Hire Extra Men and Teams.—In case of snowfall or other emergency the commissioner of street cleaning, or his district superintendents, may hire or temporarily employ such and so many men, vehicles and horses as shall be rendered necessary for such emergency, forthwith reporting such action, with full particulars, to the Board of Public Works; but no man, vehicle or horse shall be so employed for a longer period than three days, except that any person registered or eligible to appointment on the list of the Civil Service Commissioners may be temporarily employed at any time as extra employe, to fill the place of any employe who is suspended or temporarily absent from duty from any cause.

Liability of city for snow and ice in street. (*Heether vs Huntsville*, 121 Mo. App. 495; *Reno vs St. Joseph*, 169 Mo. 642 and cases there cited; *Quinland vs Kansas City*, 104 Mo. App.

616; *Strange vs St. Joseph*, 112 Mo. App. 629; *Peters vs St. Joseph*, 117 Mo. App. 499; *Reedy vs Brewing Assn.*, 161 Mo. 523.)

Sec. 19. Contract For Cleaning Street—Lowest Bidder—How Paid.—The Common Council may, upon recommendation

of the Mayor, authorize the Board of Public Works to enter into contracts for the cleaning of any street or streets, in any district, or for the part or whole of any district, provided such contract shall be publicly let to the lowest and best bidder and shall not be for a period longer than five years. The work to be done under such contracts shall be under the supervision of the commissioner of street cleaning and the superintendent of the district in which the streets to be cleaned may be located. Such contractors shall be paid out of the funds appropriated for the use of the department of street cleaning and set apart to the particular district or districts in which said work is done. Such contractors shall in every case give such bonds for the faithful performance of such contracts, in such amounts and upon such conditions as may be required by ordinance of the Common Council.

See power of city to contract, Article I, Section 1, note.

Liability of city in case of independent contractor. (*McGrath vs St. Louis*, 215 Mo. 191.)

Sec. 20. Commissioner Authorized to Adopt Rules.—The commissioner of street cleaning is hereby authorized and empowered from time to time to make, adopt and enforce reasonable rules, orders and regulations, subject to the approval of the Board of Public Works, for the purpose of carrying out the purposes of this article, and for the administration and discipline of said department and the members and employes thereof.

Sec. 21. Carts and Wagons—Size of—Deposit of Trash—Violations of Ordinance—Complaint—Commissioner's Power to Arrest.—The Common Council shall, by ordinance, provide that all carts and wagons used by said department of street cleaning shall be of such size, form and construction as to prevent the escape, during transit, of dust, dirt or any refuse carried therein, and shall pass suitable ordinances for the prevention of the deposit of any filth, trash, rubbish or other refuse in any manhole or sewer of the city, or upon any sidewalk, street, highway or public place thereof, or upon any private property within the limits of the city, except with the consent of the owner of said property and upon a permit from the Board of Hospital and Health of the city, and shall provide suitable penalties for the violation of such ordinances. It shall be the duty of the commissioner of street cleaning, and the district superintendents and all employes in said department, to report all violations of said ordinances to the chief of the police department, and to lodge complaints

with the proper officers of the city, giving the names of the persons so violating said ordinances. The commissioner of street cleaning and all district superintendents and foremen in said department, shall be conservators of the peace, with power to arrest any person who may violate any of the provisions of said ordinance.

City not liable for defects in tools and appliances. See note Article 1, Section 1, note.

Sec. 22. Department Uniform, Badges, Etc.—The commissioner of street cleaning is hereby authorized from time to time, with the approval of the Board of Public Works, to prescribe uniforms, badges or insignia to be worn and displayed by employes and members of said department, and to prescribe that the same shall be worn during all hours of service.

Sec. 23. Duty of Owners of Property—Cleaning of Sidewalks, Etc.—Nothing in this article shall be held to relieve any owner or occupant of any property from any duties imposed upon him by ordinance of the Common Council in relation to the cleaning of, or the removal of filth, snow, ice, dirt or other refuse from sidewalks or gutters of any streets upon which said property fronts or abuts, or from any alley in the rear or upon the side of any such property. The Common Council may pass such ordinances, not in conflict with this article or the constitution and laws of this state, as it may deem necessary or expedient for more fully carrying into effect or enforcing the provisions of this article.

City cannot avoid responsibility by arrangements with others. (*Blake vs St. Louis*, 40 Mo. 569; *Wiggins vs St. Louis*, 135 Mo. 558.)

City cannot shift burden for defects in streets or walks upon property holder and is liable to tenant for injuries resulting from defects in sidewalk in front of property occupied by tenant. (*Ford vs Kansas City*, 181 Mo. 137.)

Liability of city for snow and ice in streets. (*Heether vs Huntsville*, 121 Mo. App. 495; *Reno vs St. Joseph*, 169 Mo. 642 and cases there cited; *Quinlan vs Kansas City*, 104 Mo. App. 616; *Strange vs St. Joseph*, 112 Mo. App. 629; *Peters vs St. Joseph*, 117 Mo. App. 499; *Reedy vs Brewing Assn.*, 161 Mo. 523.)

Sec. 24. Repairs to Expedite Cleaning.—Whenever the repair of any street, alley, or highway of the city is necessary in order to expedite the cleaning of streets as herein provided, the commissioner of street cleaning shall report such fact to the superintendent of repairs, whose duty it shall be to promptly make such repairs.

Sec. 25. Board Shall Keep Record—Accounts—Classified.—

The board shall keep full and complete records of all its proceedings. It shall keep books of account showing with accuracy the receipts and expenditures of the board under such plan and system as the Comptroller may prescribe. It shall classify or divide the various works and interests under its control into branches, as far as may be, and keep an accurate account of each branch, showing the amounts expended for original improvements and construction, and the amount for repairs, superintendence and other expenditures, exhibiting the source of expenditure.

Report to Mayor, Etc.—It shall be the duty of the board to make a report in writing to the Mayor and Common Council once every three months, or oftener if thereto required, giving the expenditure of the different branches of work under the control of the board, and embracing a statement of the condition, progress and operation of the works in its charge.

Record is competent evidence. (*Fruin-Bambrick Co. vs Geist*, 37 Mo.App. 509.)

ARTICLE XI.

DEPARTMENT OF FIRE AND WATER.

Section.

1. Board of Fire and Water Commissioners — Appointed by Mayor—Term of Office—Salaries—President of—Secretary of—Meetings of Commissioners—Quorum.
2. Board—Its Duties and Powers—Maintain Water Works System—May Acquire Land for Water Works or Fire Department System.—To Lay Pipes, Etc.—Cost of—How Paid.
3. Board to Have Charge of Water Works and Fire Department System—May Appoint Superintendent and Other Officers.
4. Work, Material and Supplies—Contracts.
5. Water License—Owners Required to Take Out—Rates—Penalties.
6. Assessor and Collector of Water Rates—Appointment, Term and Duties of—Board Shall Adjust Errors, Etc.—Refunds—Report of.
7. Assessor and Collector of Water Rates—To Pay all Revenue to Treasurer—Statement to Comptroller of Collections and Blank Licenses.
8. Water Licenses—Issuing and Signing of—Comptroller to Examine Statements and Certify to Board.
9. Water Rates, How Fixed—To Produce Revenue—Discrimina-

Section.

- tions Forbidden—Revenue Used to Pay Interest on Bonds—And Sinking Fund.
10. Water Rates—Further Authority of City Over.
11. Board to Make Annual Report—Publication of.
12. Board Shall Have Full Control of Fire Department System.
13. Board Shall Appoint Fire Chief—Term of—Naming Places of Service and Grading Positions.
14. Fire Department — Persons Taken Into Service—Rules Governing.
15. Companies Shall be Organized—Board Shall Prescribe Duties—Determine Quantity and Character of Equipment.
16. Fire Chief—Powers and Duties—Responsible for Discipline—Superintendence and Control Over Officers and Men—Control Over Persons at Fires—And Ex-officio Powers of Chief of Police—Subordinates to Have the Same Power as Policemen—Other Powers Enumerated.
17. Common Council to Provide for Fund for Pensioning Firemen—Appropriation, When Made.
18. Management and Control of Pension Fund.
19. Amount of Pension Fund—Limitations.
20. Ordinances to Carry Out Objects of This Article.

Section 1. Board of Fire and Water Commissioners—Appointed by Mayor—Term of Office—Salaries—There is hereby established within the city an executive department to be known as the Fire Department and an executive department to be known as the Water Department, both of which

shall be under the control and management of a board of fire and water commissioners. Said commissioners shall be appointed by the Mayor and shall be well known for their intelligence and integrity. The term of office of such commissioners shall be three years; *Provided*, That the first commissioners appointed hereunder shall so classify themselves by lot that the term of one of the commissioners shall expire at the beginning of the fiscal year 1909; one at the beginning of the fiscal year 1910; one at the beginning of the fiscal year 1911, and at the expiration of the term of each member his successor shall be appointed by the Mayor for a term of three years from the date of the expiration of the official term of his predecessor. The first board shall be appointed forthwith after this Charter takes effect. Said commissioners shall each receive the sum of one thousand dollars per year as compensation for their services until otherwise provided by ordinance.

President of.—The first board appointed hereunder shall organize by electing one of its members president, and the members of said board shall, annually thereafter, elect one of their number as president of said board; each president elected hereunder shall hold office for one year and until his successor is elected and qualified.

Secretary of.—The board shall select a secretary who shall not be a member of the board, and who shall serve at the pleasure of the board.

Meetings of Commissioners—Quorum.—The board shall hold regular meetings at least once each week, and as many special meetings as it may deem proper; two members of said board shall constitute a quorum for the transaction of business and an affirmative vote of at least two members shall be necessary to authorize any action of the board.

Sec. 2. Board—Its Duties and Powers—Maintain Water Works System.—Said Board of Fire and Water Commissioners shall have power, and it shall be its duty to maintain and operate a water works system for the use of and to supply the city, its inhabitants or any person, firm or corporation with water within or without the corporate limits of said city, or within or without the limits of the State of Missouri. Said board shall have power to select and designate the lands to be used and appropriated for a water works or fire department within or without the city limits and within or without the State of Missouri, and to extend, alter,

enlarge and modify the water works or fire department systems of Kansas City.

May Acquire Land For Water Works or Fire Department System.—Said board shall have power by and with the approval and authority by ordinance of the Common Council, to lease, control or otherwise acquire in the name of the city, land for water works or fire department systems or for purposes appertaining thereto.

To Lay Pipes, Etc.—Cost of—How Paid.—Said board shall have power to lay water pipes and supply water along such streets, avenues, public highways or alleys or part thereof, or in such places within or without the city or without the State of Missouri, and under such terms and conditions as it may deem advisable; the cost of laying such pipe shall be paid out of the sum or sums appropriated to the use of said board as hereinafter provided. The necessary excavations and fillings for water pipes and their connections, when within the lines of public highways of the city, shall be made under the supervision of the Board of Public Works.

The city, by an act of the General Assembly of the State, entitled, "An Act Concerning Water Works and a Supply of Water for the City of Kansas," approved March 24, 1873, (Laws 1873, p. 286), was empowered to construct, own and operate a system of water works, or to grant to any person or corporation the right to erect and operate such water works upon certain terms and conditions therein mentioned. In pursuance of this power, the city, by ordinance numbered 10524, entitled "An Ordinance Authorizing the National Water Works Company to construct, operate and maintain water works in the city of Kansas," approved October 27, 1873, entered into contract with the National Water Works Company of New York, which contract was duly ratified by the qualified voters of the city, November 15, 1873. This contract was afterwards, by consent of parties, amended by an ordinance numbered 14776, approved February 13, 1877. The contract was to endure for the period of twenty years the city to have the right at any time to purchase the plant, and if at the expiration of said twenty years the contract had not been renewed and the city had not elected to purchase, and

the company had complied with all the conditions of the contract on its part, then the city should purchase the same; but, if the company failed to comply with its part of the contract, then the city should not be compelled to purchase at any price. Litigation arose between the city and the company upon the question whether the company had complied with its contract. During the litigation the contract period expired. The court decided that the city had waived the company's breaches of contract. The value of the entire system, including the supply plant in the State of Kansas, was fixed at \$3,000,000. The legislative act and contract ordinance are set forth in the reports of the case, (National Water Works Company vs Kansas City, 27 L. R. A. 827; s. c. 62 Fed. Rep. 853; s. c. 27 U. S. App. 165.)

The city obtained possession of the water works on the 1st day of September, 1895. See Article III, Section 1, Cl. 2 and Cl. 9.

Building engine house is not a damage to adjacent property within purview of State Constitution. Engine house not nuisance per se. (Van de Vere vs Kansas City, 107 Mo. 83.)

For power of city to acquire and hold land for water works system inside or outside of city, see Article I, Section 1, and note.

City may purchase supply of water outside of city and convey it to city and for such purpose debt may be created. (*Haeussler vs St. Louis*, 205 Mo. 656, 1. c. 681.)

City has power by ordinance to appropriate to its own use water mains laid in public street by private citizen at his own expense with consent of city and to pay for such property out of its revenues and make it part of its own water works system. (*State ex rel. vs St. Louis*, 169 Mo. 31.)

Sec. 3. Board to Have Charge of Water Works and Fire Departments System—May Appoint Superintendent and Other Officers.—The board of fire and water commissioners shall have charge of the entire water works and fire department systems of the city, and all appurtenances thereto belonging and shall superintend, control and manage said water works and fire department systems and all property appertaining thereto or necessary or convenient for accomplishing the purposes contemplated by this article, and shall enforce the performance of all contracts and work, and shall have custody of all books, assets and property belonging to or appertaining to said water works and fire department systems. Said board may, subject to the civil service laws, rules and regulations prescribed by and provided for in this Charter, appoint and employ such chief superintendent and superintendents, assessor and collector of water rates, and any and all other officers and employees as it may deem necessary and shall prescribe and fix their duties.

Superintendent of water works held to be officer and not mere employee. (*State ex rel. vs Shannon*, 133 Mo. 139.)

City is not liable for damages occasioned by negligence of fireman or by defective or insufficient machinery or by failure to extinguish fire nor for

failure to supply sufficient water. (*McKenna vs St. Louis*, 6 Mo. App. 320; *Heller vs City of Sedalia*, 53 Mo. 159; *Howsmon vs Trenton Water Co.*, 119 Mo. 304; See also note Article 1, Section 1.)

Sec. 4. Work, Material and Supplies—Contracts.—The contracts for the doing of all work and the furnishing of all materials and supplies for the water works and fire department systems shall be let by the Board of Fire and Water Commissioners, subject to the provisions of Article IV of this Charter relating to the City Purchasing Agent, except that in cases of emergency when the Purchasing Agent is unable to furnish materials, machinery, tools and supplies immediately necessary for the use of said board, the same may be purchased by the board irrespective of the Purchasing Agent and without competitive bidding, when said purchases do not involve an expenditure of more than five hundred dollars.

See note to Article I, Section 1.

See note Article III, Section 1, cl. 2.

Sec. 5. Water License—Owners Required to Take Out—Rates—Penalties.—The board of fire and water commissioners may require owners, or lessees or their agents, of house, store and other buildings in the city, or in any such parts thereof as they are ready to supply, to take out licenses for the use of water for such houses, stores or buildings, according to the rates or assessments fixed as provided in this article, whenever the hospital and health board of the city, or the proper officer designated by it, shall, by order duly made, declare that the use of water from the water works of the city in any such house, store or buildings is demanded as a sanitary measure for the preservation of the health of the inmates or inhabitants of such house, store or building; and the said rate of assessments shall be paid by all such proprietors, owners or lessees or their agents, as well by those who consent as by those who refuse to place in their houses, stores and buildings the water pipe to convey the same, and shall be payable whenever the Board of Fire and Water Commissioners shall have notified the proprietor, owner, lessee, or his agent, of the readiness of said board to supply such house, store or building with water as aforesaid. The parties who fail or neglect to comply with the provisions of this section shall be subject to penalties as may be provided by ordinance.

Power of board to compel persons to pay for water whether they use it or not. (St. Louis vs Tiefel, 42 Mo. 578.)

Power of board to require use of particular kind of hydrant. (State ex rel. vs Goodfellow, 1 Mo. App. 495.)
City has not power to fine real es-

tate agent for failure to act on behalf of owner. (St. Louis vs Kalme, 180 Mo. 309.)

Authority of board to make assessment against property owner for laying water pipes in front of property. (Young vs St. Louis, 47 Mo. 492.)

Sec. 6. Assessor and Collector of Water Rates—Appointment, Term and Duties of.—The assessment and collection of water rates shall be under the control and supervision of the Board of Fire and Water Commissioners, who shall appoint an assessor and collector of water rates, who shall hold office during the pleasure of the board. He shall have authority to appoint, subject to the civil service laws, rules and regulations contained in or provided for by this Charter, such clerks and assistants as may be authorized by said board. It shall be the duty of such assessor and collector to collect all revenue due or to become due to the city for water, or accruing to the city on account of the operation of the water works system.

Board Shall Adjust Errors, Etc.—Refunds—Report of.—The board shall have power to make corrections and adjustments

for all over-charges or errors in water bills collected from or charged against consumers of water. All refunds shall be made out of the funds of the board by requisition on the Auditor for warrants, as authorized by this Charter. The board shall make a detailed daily report to the Comptroller of all such refunds.

Held that salary of Assessor and Collector of water rates cannot be increased during term of office. (State ex rel vs Smith, 87 Mo. 158.) But salary of officer or employee who is subject to removal at pleasure may be increased during term. (State ex rel. vs Johnson, 123 Mo. 43; State ex rel. vs Longfellow, 95 Mo. App. 660.)

Tenure of office of assistants. (State ex rel. vs Longfellow, 95 Mo. App. 660.)

Action for secret use of water. (St. Louis vs Arnot, 94 Mo. 275.)

Water license paid under threat of turning off water is payment under compulsion and if charge is in excess of lawful rate excess may be recovered. (Westlake vs St. Louis, 77 Mo. 47, s. c. 6 Mo. App. 586; Brewing Assn. vs St. Louis, 140 Mo. 419; Brewing Assn. vs St. Louis, 187 Mo. 367.)

Sec. 7. Assessor and Collector of Water Rates—To Pay All Revenue to Treasurer—Statement to Comptroller of Collections and Blank Licenses.—The assessor and collector of water rates shall each day pay the City Treasurer all revenue collected on account of water works, and then on hand, and take duplicate receipts for the same, one of which he shall file in his office, and the other he shall forthwith deliver to the auditor. He shall, within the first six days of each month, furnish the Comptroller with a full and complete statement of all collections made by him during the preceding month, and also the number of blank licenses on hand at the end of that month.

Failure of collector to account for unissued licenses prima facie evi-

dence of receipt of money upon same. (St. Louis vs Foster, 24 Mo. 141.)

Sec. 8. Water Licenses—Issuing and Signing of—Comptroller to Examine Statements and Certify to Board.—Blanks for water licenses shall be in such form as may be prescribed by the board, and the Comptroller shall countersign the same and shall issue the same from time to time to the assessor and collector of water rates and take his duplicate receipt therefor, one of which shall be filed with the City Auditor, one to be retained in the Comptroller's office, which latter receipts shall be kept in well bound books. The Comptroller shall examine each monthly statement of said Assessor and Collector of Water Rates and certify to the Auditor and to the Board of Fire and Water Commissioners whether the same be correct or not.

Sec. 9. Water Rates, How Fixed—To Produce Revenue—Discriminations Forbidden—Revenue Used to Pay Interest on Bonds—And Sinking Fund.—It shall be the duty of the Common Council, by ordinance, upon recommendation of the Board of Fire and Water Commissioners, from time to time, to fix, alter and establish prices and rates to be paid for the use of water. No water rate shall be allowed or fixed by any other principle or consideration than that of producing revenue, and exceptional discriminations in rates are forbidden. Water rates shall be so fixed as to produce revenue enough to pay at least all running expenses, the interest on all bonds issued and outstanding for water works purposes and costs of all repairs of the works. All revenue and income derived from the water works after paying all salaries of officers and employes, running expenses and cost of repairs, shall so far as may be necessary to meet the same, be first applied to the payment of interest on said bonds, and the balance thereof shall go to the sinking fund to meet the principal of said bonds, or for enlargements, extensions and betterments as the Common Council may, by ordinance, provide.

Sec. 10. Water Rates—Further Authority of City Over.—If deemed advisable by the law-making authorities of the city, upon recommendation of the Board of Fire and Water Commissioners, water rates may be so fixed by ordinance as to produce revenue enough to pay for all enlargements, extensions and betterments of the works, in addition to the running expenses, the interest on all bonds issued or hereafter to be issued and outstanding for water works purposes, and costs of all repairs of the works.

Sec. 11. Board to Make Annual Report—Publication of.—Said board shall make an annual report to the Mayor and Common Council of the acts of said Board of Fire and Water Commissioners and all its expenditures, showing the condition of all affairs under its control. Said board shall also cause to be published in pamphlet form, at least once in four years, a comprehensive report of the operations of the department, for public distribution.

Sec. 12. Board Shall Have Full Control of Fire Department System.—Said board shall have charge, management and control of all the city's fire engines and means and apparatus used or provided for the extinguishment and prevention of fires and of all buildings, houses and places of the city used in keeping and preserving the same,

and generally shall have full charge and control of the management, operation, extension, enlargement and betterment of the fire department system of the city, subject to the provisions of this Charter.

Sec. 13. Board Shall Appoint Fire Chief—Term of—Naming Places of Service and Grading Positions.—Said board shall appoint a fire chief to serve during the pleasure of the board. It shall also, from time to time, divide the places of employment and service in the fire department into positions, naming them, grading according to the importance of the duties to be performed by the employees occupying such positions. The chief of the fire department, and all other persons in the employ of the fire department at the date of the taking effect of this Charter shall, upon the taking effect of this Charter, be deemed to have been appointed to and employed in their present positions and places of employment by said Board of fire and Water Commissioners at the same compensation, without further or additional appointment or employment, except that the said chief of the fire department shall henceforth be known as Fire Chief.

Tenure of office; increase of salary | son, 123 Mo. 43; State ex rel. vs
during term. (State ex rel. vs John- | Longfellow, 95 Mo. App. 660.)

Sec. 14. Fire Department—Persons Taken Into Service—Rules Governing.—Except as provided in the next preceding section of this article, and with the exception of the Fire Chief, no person shall be taken into the service of the fire department otherwise than in accordance with the civil service laws, rules and regulations contained in or provided for by this Charter. All employments in the fire department shall, in the first instance, be for a probationary period of six months, during which time such probationers shall perform such substitute duties in the department and shall receive such per diem compensation for the actual time engaged in the performance of such duties as the board shall prescribe. Such probationers shall be numbered by the Fire Chief in the order in which, according to merit, they are certified for employment from the eligible list of the civil service commission, and each probationer who by such actual experience manifests his fitness for duty as a fireman shall be selected for regular employment in the department in the same relative order.

Sec. 15. Companies Shall be Organized—Board Shall Prescribe Duties—Determine Quantity and Character of Equipment.—Said board shall organize fire, hose, ax, chemical, hook and ladder

and other fire fighting companies and employ a suitable number of able and reputable inhabitants of the city as firemen to take the care and management of the engines and apparatus and implements used and provided for the extinguishment of fires, and shall prescribe the duties of firemen, and make rules and regulations for their government, and impose reasonable penalties for violation of the same. Said board shall from time to time, determine and fix the quantity, kind, character and quality of all equipment, apparatus and supplies needed by said fire department, including means of giving and receiving fire alarms, and shall purchase and pay for the same as provided in this Charter.

Sec. 16. **Fire Chief—Powers and Duties—Responsible for Discipline—Superintendence and Control Over Officers and Men—Control Over Persons at Fires—And ex-Officio Powers of Chief of Police—Subordinates to Have the Same Power as Policemen—Other Powers Enumerated.**—The Fire Chief shall be responsible for the discipline, good order and proper conduct of the employes under him in the whole fire department, the enforcement of all laws, ordinances, rules and regulations pertaining thereto, and for the care and condition of the houses, engines, hose, carriages and all property of the department. He shall have the superintendence, control and command of all the officers and men belonging to the department, and full power to remove, discharge and suspend them, or any of them, and shall also have charge of all the engine houses used by the department, and of all the engines and fire apparatus belonging to the city. He shall, likewise, have full control of all persons present at fires, and to that end shall *ex-officio* have and exercise all the powers of the Chief of Police of the city thereat, and all of his subordinates shall have the same powers as policemen. He shall have power, if need be, to summon any and all persons present to aid in extinguishing any fire, in removing personal property from any building on fire or in danger thereof, and in guarding the same, and any person refusing to obey such summons shall be deemed guilty of a misdemeanor. He shall also have power to order the cutting down and removing of any building, erection, fence and thing, if he shall deem it necessary for the purpose of checking the progress of any fire. In case of the absence of said Fire Chief from any fire, the assistant in the department of the highest rank then present shall, for the time, have the powers and perform the duties of such Fire Chief. The Fire Chief or the assistant in command at any fire may prescribe limits in the vicinity of such fire within which no person, excepting those who re-

side therein, members of the fire department or the police department, and those admitted by order of the officers of the fire department, shall be permitted to come.

Sec. 17. Common Council to Provide For Fund For Pensioning Firemen.—It shall be the duty of the Common Council to appropriate and set apart twenty-five per cent of the total amount received by the city from the tax on foreign insurance companies to aid in the creation of a fund for the purposes set forth in the act of the general assembly of the State of Missouri, entitled, "An act to provide for the creation, maintenance and management of funds for the pensioning of crippled, disabled and retired firemen, and for the relief of widows, minor children and dependents of the deceased firemen; the retirement from service of members of the fire department, and the pensioning of members, their widows, minor children and dependents in all cities in this state which now have or which hereafter acquire a population of more than one hundred thousand inhabitants: Approved March 23rd, 1903."

Appropriation, When Made.—Such appropriation shall be made as soon as the money has been actually received into the City Treasury from said tax on foreign insurance companies, and the organization of said board of trustees fully completed as provided in said Act of the General Assembly.

Sec. 18. Management and Control of Pension Fund.—The management and control of such fund shall be governed by all the provisions and limitations in said Act of the General Assembly contained.

Sec. 19. Amount of Pension Fund—Limitations.—Whenever the city shall have paid into said fund as aforesaid, the sum of one hundred thousand dollars, no further appropriation shall be made by the city to said fund except by ordinance passed by an affirmative vote of at least two thirds of the members elect of each house of the Common Council.

Sec. 20. Ordinances to Carry Out Objects of This Article.—The Common Council shall have power to pass all such ordinances not in conflict with this Charter or the Constitution and Laws of the State, as it shall deem proper to more fully carry out the objects and purposes of this article.

ARTICLE XII.

ESTABLISHMENT AND MAINTENANCE OF LEVEE DISTRICTS.

Section.

1. Common Council to Provide for Establishment of Levee District—May Acquire Land—Cost of—Assessment—Bonds.
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Section 1. Common Council to Provide For Establishment of Levee District—May Acquire Land—Cost of—Assessment—Bonds.—The Common Council shall have power to provide for the establishment of levee districts within the city limits and for the construction of levees, dikes, drains and other works therein, for the protection of the lands within such levee districts from floods or overflow of waters, and for the acquisition of lands rights-of-way, and other rights required therefor by the city, by purchase, condemnation or otherwise, including railroad property. The cost of such land, rights-of-way and other rights, and of the construction of said levees, dikes, drains and other works within any levee district may be paid by assessment of benefits upon all the lands within said levee district, exclusive of improvements thereon, or out of the general fund of the city, or by the issue and sale of the bonds of the city according to law, or partly by assessment and partly out of the general fund, as may be provided by ordinance; or, when two or more of such levee districts may be joined as one benefit district as hereinafter provided, for the acquisition of such lands or rights, and the construction of such improvements, the Common Council shall have power, by ordinance, to provide that the cost of such acquisition and construction may be paid by assessment of benefits upon the lands, exclusive of improvements thereon, in all such districts so joined.

Statutory provisions in regard to levees. (R. S. 1899, Chap. 124. R. S. 1909, Art. X, Chap. 41.)

Authority conferred by this section is exercise of police power, assessment of benefits is not tax, is not governed by constitutional limitations in regard to taxation and is not taking private property for public use without due compensation. (Morrisson vs Morey, 146 Mo. 543.)

Distinction between drainage laws, sewer laws and levee laws. (Mound

City Land & Stock Co. vs Miller, 170 Mo. 240.)

Assessment must cover all benefited land in district. (State ex rel. vs Wall, 153 Mo. 216.) Assessment not void if land not benefitted is not included in assessment. (State ex rel. vs Lumber Co., 198 Mo. 430; Corrigan vs Kansas City, 211 Mo. 608; State ex rel. vs St. Louis, 211 Mo. 591.)

Power to issue bonds for levee work. (State ex rel. vs City of Neosho, 203 Mo. 40, l. c. 83.)

Sec. 2. Board of Public Works—to Devise System of Levees.

—The Board of Public Works shall have the power, and it shall be its duty, when any such levee district has been established by the Common Council, to devise and adopt a system of levees, dikes, drains and other works for the protection from floods or overflow, of all lands within such levee district, and to select and designate lands and rights-of-way to be used and appropriated for levees and others works necessary for the uses of said district, and recommend to the Common Council the acquisition of such lands and other rights and the construction of such works.

Surveys and Maps—Estimate Cost—City Engineer Shall Assist—Report to Common Council.—And said Board of Public Works shall cause accurate surveys, maps and profiles to be made of levees, dikes, drains and other works to be constructed, and shall estimate and calculate the cost of the construction of the same, and the City Engineer and his assistants shall assist said board when required, and the board may, if authorized so to do by the Common Council, employ additional experienced, suitable and competent engineer or engineers to assist said board, and the board shall make a written report to the Common Council of its conclusions, showing the amount, character and kind of work to be done, the location and probable cost thereof, for the information and use of the Common Council.

Sec. 3. Acquisition of Land—Ordinance.—The Common Council may provide, by ordinance, for the acquisition of land, rights-of-way and other rights required by the city in the exercise of the powers conferred in this article, in the manner provided in Article VI of this Charter relating to condemning and damaging private property, or as hereinafter provided.

Sec. 4. Ordinance for the Acquisition of Land, etc.—Assessments of Costs, Damages and Benefits.—The Common Council may provide in the ordinance for the acquisition of the land, rights-of-way and other rights required as aforesaid, and for the construction of the levees, dikes, drains and other works proposed, in which case the acquisition of the land, rights-of-way and other rights, and the assessment of the costs and damages on account of the acquisition of the same, and the assessment of benefits to pay therefor, and the assessment of benefits to pay

for the construction of said levees, dikes, drains and other works, may be had and done in one and the same judicial proceeding.

Benefit District—Description of Property Taken.—The benefit district in any such proceeding may include one or more levee districts as may be provided by ordinance. And in such ordinance, separate descriptions of each piece or parcel of private property to be taken will not be required, but it shall be a sufficient description of the property to be taken, purchased or damaged, to give a description of the entire tract by metes and bounds, whether the same shall be composed of one or more than one piece or parcel.

Plat of Description of Property—City Engineer—To Contain Names of Owners.—After the passage of such ordinance, the city engineer, or his assistants, shall make out and deliver to the Board of Public Works a statement, by map, plat or otherwise, containing a correct description of the several lots or parcels of private property to be purchased, taken or damaged, and containing also the names of the owners so far as known of such lots or parcels of land, if any, to be taken or damaged, or of any estate or interest therein, who may be such at the time of the taking effect of the ordinance providing for the taking or damaging of such private property.

Sec. 5. Board of Public Works, to Make Plans and Specifications—Calculations of Costs, etc.—May Advertise for Bids—Estimates and Calculations to Be Certified—Record—Conclusive as to Cost.—After the passage of the ordinance as specified in the foregoing section providing for the construction in any levee district or districts of any levee, dike, drain or other works, or system of levees, dikes, drains or other works, and the acquisition of the land, rights-of-way and other rights, if any, required therefor, the Board of Public Works shall cause plans and specifications to be made for the work, and shall make estimates and calculations of the cost of such work, exclusive of the cost of the land, rights-of-way and other rights to be acquired, and damages sustained by virtue of said improvements, and to that end, may advertise for bids or proposals for the whole or any part of the work; and the said board shall be aided in making said estimates and calculations by the City Engineer and his assistants, and by such other persons, if any, as may be employed by said board by authority of the Common Council, the cost of such work to include the cost of any material required for the said work; and such estimates and calculations of the cost of such work, when com-

pleted, shall be certified to under the hand of the president and secretary, and a record thereof shall be made and kept in the office of said board; and said estimates and calculations of the board shall be conclusive as to the cost of such work in all proceedings for the assessment of benefits to pay therefor as hereinafter provided.

Presenting in Circuit Court—Petition to Allege, What—Prayer of—Jury of Six Freeholders.—After the plans and specifications of the work provided by the said ordinance to be done, and the estimates and calculations of the cost of the same, shall have been completed, the city shall file a proceeding in the Circuit Court of Jackson county, Missouri, at Kansas City, in the name of the city, the same to be conducted in all respects as proceedings for the condemnation of lands for the establishment of parks and boulevards as provided in Article XIII of this Charter. In the petition filed by the city in such proceeding, the city shall allege the passage and approval of the ordinance providing for the work specified therein to be done, the condemnation of land, rights-of-way and other rights required therefor, if the same shall have been provided for in the ordinance, and the estimated cost of the work as shown by the record of the Board of Public Works, and the prayer of the petition shall be that the court shall summon a jury of six freeholders who shall not be interested in any property or rights to be taken, purchased or damaged, for the assessment of the costs and damages on account of the property and rights to be taken or damaged, and the benefits arising from said proposed improvement, including all benefits to the city at large, and that the court shall find and determine the validity of said ordinance, and the amount, if any, for which the respective lots, tracts, and parcels of land within the benefit district described in the ordinance shall be charged for the acquisition of the property and rights to be acquired, if any, and the construction of the improvements provided for by said ordinance.

Sec. 6. Process, How Served—Evidence.—Service of process in the proceedings specified in the preceding section shall be governed by the provisions of Article XIII of this Charter, relating to service of notice and summons in proceedings for the ascertainment of benefits and damages for the condemnation of lands for parks and boulevards. In such proceeding, the city may offer in evidence the plans and specifications of the work to be done and improvements to be made as provided by the ordinance and approved by the Board of Public Works together with the estimates

of the cost of such work and improvements as determined by the Board of Public Works, and may offer evidence tending to prove the validity of said ordinance and proposed lien, the value of the land and rights-of-way and other rights to be taken, if any, the damages to be suffered by any and all persons on account of the construction of said dikes, levees, drains and other works, and the benefits to each and every tract and parcel of land within the said levee or benefit district sought to be protected, and to the city at large; and the respective owners of lots, tracts and parcels of land within said benefit district will have the right to introduce evidence tending to show the invalidity of such ordinance and of said proposed lien against the respective lots, tracts and parcels of land within said benefit district, and shall have the right to have determined the question of whether or not the owner of any lot, tract or parcel of land shall be charged with such lien, and shall have the right to offer evidence as to any damages to any lot, tract or parcel of land sought to be taken, or any lot, tract or parcel of land or other property alleged to be damaged, and as to the benefit or want of benefit to any lot, tract or parcel of land sought to be assessed with benefits, and to the city at large.

Jury to Estimate Benefits, Damages, Etc.—And to pay compensation for the land, property and other rights to be acquired and damages suffered and to pay the estimated cost of the work to be done and improvements to be made, the jury of freeholders shall estimate the amount of benefit to the city at large, and shall estimate the value of the benefits of the proposed improvements to each and every lot, piece and parcel of private property, exclusive of the buildings and improvements thereon within the benefit district, if any benefit is found to accrue thereto; and in case the total of such benefits, including the benefits to the city at large, equals or exceeds the amount of compensation assessed or to be paid for the property and rights purchased, taken or damaged, and the cost of the improvement as estimated by the Board of Public Works, or such portion of said compensation and cost as by said ordinance is provided to be paid by the assessment of benefits, then said jurors shall assess against the city the amount of benefits to the city as aforesaid, and shall assess the balance of the cost of such improvement, inclusive of the cost of the property and rights acquired and damages sustained, or so much of the cost thereof as by said ordinance is to be paid by assessment of benefits, against the several lots and parcels of private property found benefited, each lot or parcel of ground to be assessed with an amount bearing the same ratio to such balance as the benefit to each lot

or parcel bears to the whole benefit to all the private property assessed.

Verdict Shall Show, What—Description of Private Property and Value—Estimated Cost by Board—Amount Assessed Against City.—And the jury of freeholders shall render a verdict which shall show:

First: A correct description of each piece or parcel of private property taken, if any, and the value thereof as found by said jury, and of each piece or parcel of private property or other property damaged, and the amount of damages thereto as found by said jury, and the description of rights-of-way or any other rights to be acquired by the proceeding and the value thereof as found by said jury.

Second: The estimated cost of constructing the improvements as determined by the Board of Public Works.

Third: The amount, if any, assessed against the city, which shall stand as a judgment against the city; and shall show the amount of benefits assessed against each piece or parcel of private property found benefited within the benefit district to pay the compensation awarded for property taken or damaged, or rights acquired, and to pay the estimated cost of construction of the proposed improvements provided for in said ordinance.

Provisions of Art. XIII Shall Apply to Verdicts.—The provisions of Article XIII of this Charter relating to the making up and signing of the verdicts of juries of freeholders in the acquisition of lands for parks and boulevards, and the duties of the city engineer and city assessor and their assistants in relation thereto, shall apply to the making up and signing of the verdicts of such juries in the cases specified in this article.

Art. XIII, Sec. 11.

Sec. 7. Property Taken or Damaged—Proceedings by Article XIII.—The proceedings specified and the rights conceded in Article XIII of this Charter, including the waiver of such rights as set forth therein, where property is taken or damaged for public use for parks and boulevards, where the owner or claimant therefor is an incorporated company entitled under the law of the land to a trial of its claims for compensation by a common law jury, shall be had in cases of land, rights-of-way or other rights to be condemned or damaged for the purposes of this article, when such incorporated

company shall demand a trial of its claim for compensation before a common law jury of twelve men.

Sec. 8. Court May Review Verdict—May Set Aside or Render Judgment—Judgment to Recite, What.—After the jury shall render its verdict the same may be reviewed by the court on its own motion, or on the motion of any party interested, which shall be filed and heard in the manner provided in Article XIII of this Charter for reviewing verdicts of jurors in condemnation cases relating to parks and boulevards, and the court may set aside such verdict and order a new trial; or, the court may render judgment that such ordinance, or the award of damages, or the assessment of benefits, are in whole or in part invalid and illegal. The verdict, unless set aside as aforesaid, shall be confirmed by the court, and the court shall render judgment that the said ordinance and assessments are valid, and that the city have and hold the property and rights sought to be taken, upon payment of the compensation assessed for the use of the persons entitled thereto, for the purposes specified in the ordinance providing for said improvement, and that the city pay the benefits assessed against said city, if any there be; that the city shall recover the respective amounts assessed against private property, and that the several lots, tracts and parcels of private property assessed to pay compensation for the verdict stand severally charged, and be bound, for the payment of the respective assessments and interest that may accrue thereon; and if said assessments are, by the ordinance aforesaid, made payable in more than one installment, the judgment shall so recite.

Sec. 9. Assessments, How Payable.—Said assessments to pay for said improvements may be payable in one installment, or in such number of annual installments as may be determined by the Common Council, such determination to be set forth in the ordinance of the Common Council under which said proceedings are instituted.

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| Right to authorize special assessments carries with it right to determine when and in what manner they | shall be paid. (Morrison vs Morey, 146 Mo. 543, 1. c. 567.) |
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Sec. 10. Assessments—Time and Manner of Payment, in Pursuance of Article XIII—City Treasurer's Duties.—The provisions of Article XIII relating to the time and manner of payment of assessments charged against lands for the acquisition and establishment of parks and boulevards which are payable in one or more installments, and the rate of interest on said assessments, and the

penalties specified for non-payment, and the manner of payment, and the collection of the same, shall apply to the assessments made in pursuance of this article, and all provisions relating to the duties of the City Treasurer in the matter of special assessments provided in said Article XIII including the records to be kept and the sale of lands under execution for non-payment of such assessments, and the application of the assessments to the purposes for which they are made, shall apply to the City Treasurer in relation to the assessments made in pursuance of the authority of this article.

Sec. 11. Party Aggrieved, May Appeal—Affidavit—Bond and Conditions—Filed, When—Judgment Suspended—Writ of Error Not Allowed.—Any party aggrieved by any verdict and judgment aforesaid, may take an appeal therefrom by filing such affidavit as is required in the appealing of civil cases, and filing a bond in such sum and with such security as may be approved by the Circuit Court, or judge thereof, conditioned that the party appealing, should the judgment be affirmed by the Appellate Court, or such appeal be dismissed, pay all costs of such appeal. The bond and affidavit for such appeal, however, shall be filed within twenty days from the rendition of the judgment of confirmation of the verdict, and the appeal shall be perfected within sixty days from the date of said judgment, unless further time be granted by the court. In case of appeal, the judgment shall stand suspended until the appeal is disposed of, and no interest shall be allowed or collected on the judgment or on the assessments, until said judgment be affirmed or appeal be dismissed. No writ of error shall be allowed. The clerk of the Appellate Court shall put such case on the docket for hearing at the next term of that court after the appeal is allowed. No error nor defect not affecting the rights of the appellant shall work a reversal of the judgment.

Sec. 12. Common Council May Repeal Ordinance, When.—The Common Council shall have the power, at any time before any of the parties assessed with benefits shall have paid the amount so assessed, to repeal the ordinance ordering the proposed improvement, if such repeal be deemed for the best interests of the city; and in such event, the judgment for compensation and benefits shall be void.

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| <p>(<i>Simpson vs Kansas City</i>, 111 Mo. 237; <i>Whyte vs Kansas City</i>, 22 Mo. App. 409; <i>St. Louis Brewing Assn. vs St. Louis</i>, 168 Mo. 37; <i>Kansas City</i></p> | <p><i>vs Mulkey</i>, 176 Mo. 229; <i>Kansas City vs Railroad</i>, 189 Mo. 245; <i>Nauman vs Tarkio Drainage District</i>, 113 Mo. App. 575.)</p> |
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Sec. 13. Verdict Certified—Copy to Treasurer and Comptroller—Assessments, a Lien.—After the judgment of confirmation of such verdict and proceedings, the clerk of said court shall certify under the seal of said court, to two copies of said verdict, one of which copies he shall deliver to the City Treasurer, and one to the Comptroller, and said assessment for benefits, if any, against private property, shall be a lien from the date of the taking effect of the ordinance in pursuance of which said assessments are made and said proceedings instituted, and shall attach to the several lots or parcels of land so assessed with benefits as aforesaid; and said lien shall continue against each lot or parcel assessed, until the assessment against each lot or parcel has been paid or collected in full, both principal and interest. No assessment shall be defeated or affected by any irregularity affecting any other assessment or from the rendering of any other assessment invalid in whole or in part.

Sec. 14. Verdict Confirmed—Ordinance—Treasurer Shall Issue Levee Fund Certificates—Amount of—Form of—Owner of Entitled to What.—After the confirmation by the Circuit Court, or Appellate Court on appeal, as hereinbefore provided, of any verdict in any proceeding in which special benefits are assessed against real estate as compensation for property or rights purchased, taken or damaged and to pay for all work to be done and improvements made for the purposes specified in this article, the Common Council for the purpose of raising money in advance of the dates when assessments are due, to pay for land purchased, taken or condemned, and work to be done and improvements to be made or constructed, may provide by ordinance that the City Treasurer shall issue levee fund certificates in amount not to exceed the total amount of assessments against the private property shown in any such verdict and unpaid at the expiration of the said sixty days from the confirmation as aforesaid. Such certificates shall be in such form and for such sums as may be provided by ordinance, and shall be either payable to the order of the registered holder, or be payable to bearer. Any such certificate shall entitle the owner or holder thereof to his proportionate share as shown by such certificate, of the special assessments and the interest thereon, as the same are collected, upon which such certificates are issued, and shall so specify.

Sec. 15. Distribution to Holders of Certificates—When and How—City's Liability.—Distribution of the amounts collected

upon said special assessments, including interest, shall be made to the holder or holders of such certificates, *pro rata*, at least semi-annually, at such specified dates as may be provided in the ordinance authorizing the issue of the same, and the holder shall receipt for such payments; and the city shall be liable on such certificates to the holders thereof for the sums collected from the special assessments upon which said certificates are issued and not otherwise.

Sec. 16. Certificates Registered, How.—Should the purchaser or holder elect, said certificates shall be registered by the Comptroller in the name of the owner and his assigns from time to time, and the Comptroller shall certify such registration to the holder.

Sec. 17. Certificates Designated as Series.—All levee fund, certificates issued on account of special assessment growing out of the same condemnation or assessment proceedings, including supplemental proceedings shall be considered a part of the original proceeding, and shall be designated as a series; and if any series comprises more than one certificate, such certificates shall be numbered.

Sec. 18. Certificates Certified by Treasurer—Attested by Comptroller—Record—Statement to be Published.—Each of such levee fund certificates shall bear the certificate of the City Treasurer and the attestation of the Comptroller that the same is one of a series of certificates issued on account of certain special assessments to which such series relates, and that such series is not in excess of the same; and the Comptroller shall keep a record of all such certificates issued in each series and of all payments and dividends thereon, and shall publish the same in his annual statement, and also statements of the amounts received by the City Treasurer from assessments; and shall at the request of the holder of any levee fund certificate, certify to such holder the amount that has been collected and paid on the same from special assessments, both principal and interest.

Sec. 19. Certificates—Payment—Surrender of—Cancellation.—Immediately upon full payment and surrender of any levee fund certificates, the Treasurer shall cancel the same and keep a record thereof, and deliver the same to the Comptroller, who shall give the Treasurer a receipt therefor; but when all the special assessments represented by a series of such certificates have been fully collected

so far as possible, with interest thereon, and all sums collected have been distributed as aforesaid, such certificates shall be surrendered and cancelled, and if not surrendered, shall nevertheless be void.

Sec. 20. Board of Public Works May Sell Certificates—Record of—Proceeds, How Used—Surplus.—The Board of Public Works may sell such levee fund certificates at such price not less than the face value of the amount of special assessments represented by said certificates, as may be obtainable, and shall determine the manner and means of such sale. Such certificates shall be delivered by the City Treasurer to the purchaser, upon payment therefor, upon the order of the Board of Public Works, specifying the price, which order shall be countersigned by the Comptroller, who shall keep a record thereof, and the proceeds of such certificates so sold, shall be used for payment for land purchased or condemned for the purposes of this article, and for the work to be done and improvements made and constructed for which the special assessments were made on which such certificates are issued; and any surplus remaining after all such payments are made in full shall accumulate for the use of the levee district or districts in which the improvements are situated for which such certificates were issued; but such certificates may, by agreement, be issued directly in payment for the land purchased, taken or condemned and for the work done and improvements made or constructed, on account of which the said certificates were issued.

Sec. 21. Excess and Cost of Work—How Paid.—Any excess in the cost of any work done or improvements made or constructed in any levee district or districts hereinbefore provided, above the estimate of the cost of the same made by the Board of Public Works, shall be paid by the city out of the funds of such levee district or districts not otherwise appropriated, and in default of any such unappropriated funds, shall be paid out of the general fund of the city, unless said excess shall have been otherwise provided for by the city.

Sec. 22. Protection of Certificates—Payment of.—It shall be the duty of the City Treasurer, Comptroller and said Board of Public Works, at all times to protect such levee fund certificates by all means provided therefor, and said City Treasurer shall pay all sums collected from special assessments as aforesaid to the holders of such

certificates issued thereon, and shall pay the same promptly on demand on the dates fixed for the distribution thereof, as provided by ordinance.

Sec. 23. Costs of Proceedings Under This Article—City to Pay—Except Costs for Collecting—Cost Upon Appeals—City Counselor to Conduct All Proceedings.—The city shall pay all costs of proceedings under this article to take or damage private property, or to levy assessments for benefits in payment of land, and other rights, purchased and condemned as herein provided, and for work to be done and improvements to be made except cost of proceedings for collecting overdue assessments, which shall be taxed against the real estate upon which said assessments are levied, except the cost upon appeals, which shall be paid by the party unsuccessfully prosecuting the same; and the City Counselor shall, personally, or by any of his assistants, and as a part of his duties as such counselor, conduct all the court proceedings under this article.

Sec. 24. City Not Liable on Account of Work, Etc.—When any work is done, improvements made, or lands purchased, and payment therefor is to be made in special assessments, as provided in this article, the city shall in no event, nor in any manner whatever, be liable for or on account of such work done or improvements made or land purchased, by reason of the invalidity or error in any such special assessments, nor liable in any manner for the payment of the same.

Sec. 25. Contract for Work Under This Article—Lowest Bidder—Bond—Conditions.—After the conclusion of any proceeding instituted by virtue of an ordinance of the Common Council as hereinbefore set forth, providing for the construction of any levee, dike, drain, or other works, or system of levees, dikes, drains and other works, or other improvements, under the authority of this article, the Board of Public Works shall let the contract or contracts therefor to the lowest and best bidder or bidders, subject to such rules and regulations as may be prescribed by ordinance; and every contractor for work or improvements done or made under authority of this article, shall give such bond for the faithful performance of such contract as may be prescribed by ordinance, such bond to be executed and approved in the same manner as bonds given by contractors for other

city work are required by the Charter and ordinances of the city to be executed and approved.

Work Under Direction of Board of Public Works—City Engineer, His Duties.—The construction of all improvements and all work done, of every kind, under the authority of this article, shall be under the supervision, management and direction of the Board of Public Works, and the same duties shall be required of the City Engineer and his department as are required of his department in other public improvements of the city under the supervision, control and management of the Board of Public Works; and the Board of Public Works shall have power to superintend, control and manage the operation and maintenance of all such work and improvements as may be done or constructed under the authority of this article.

Sec. 26. Real Estate—Special Assessments for Maintenance of Levees, etc.—Real Estate Not Listed, How Assessed—Assessment Not to Exceed, What—Payment of Assessments—Penalty—Sale of Property.—The real estate, inclusive of improvements thereon constituting a part thereof, in any levee district or districts, may be specially assessed annually for maintaining and repairing any levees, dikes, drains or other works constructed therein, and such assessments may be made according to valuation and assessment for taxation of real estate in such levee district or districts made for general city purposes; *Provided*, That any real estate which shall not be listed on the City Assessor's books for taxation for general city purposes, may, by ordinance of the Common Council, be listed and valued by the City Assessor for the purposes of this article; and *provided, further*, That such annual assessments authorized by this section shall never exceed in any one year one mill upon each dollar of valuation as shown on the books of the City Assessor as aforesaid. Every such assessment shall be made and collected as provided by ordinance of the Common Council, and the Common Council shall have the power to provide penalties for the failure to pay such assessments when due, and may provide for the sale of the property assessed to satisfy said assessments.

Other Sums Required, Appropriated Out of General Fund.—All other sums required to maintain such levees, dikes, drains and

other works, and to carry into effect the provisions of this article, may be appropriated out of the general fund of the city.

Sec. 27. Ordinance to Protect Levees, Etc.—The Common Council shall have power to pass ordinances for the protection of the levees, dikes, drains and other works constructed under the authority of this article, and for the proper policing of the same, and to establish penalties for the violation of such ordinances; and shall have power to pass such ordinances, not in conflict with this article, or the constitution and laws of the state, as may be deemed necessary and expedient for more fully carrying into effect the objects and purposes of this article.

ARTICLE XIII.

DEPARTMENT OF PARKS AND BOULEVARDS.

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Section 1. Board of Park Commissioners—Number—Term of Office—Present Board to Serve Out Term—Compensation.—There is hereby established within the city a department to be known as the department of parks and boulevards, which shall be under the control and management of a board of park commissioners composed of three persons well known for their intelligence and integrity, and whose term of office shall be for a period of three years; *Provided*, That the first commissioners shall so classify themselves by lot that the term of one of such commissioners shall expire at the end of one year, one at the end of two years, and one at the end of three years from the third Monday in April of the year 1909, and at the expiration of the term of each member, his successor shall be appointed by the Mayor for a term of three years from the date of expiration of the official term of his predecessor; *Provided, further*, That the members of the Board of Park Commissioners of said Kansas City in office at the time this Charter goes into effect shall become and constitute the first Board of Park Commissioners hereunder, and shall hold office until the expiration of the terms for which they were originally appointed. Said commissioners shall serve without compensation.

Organization.—The first board appointed hereunder shall organize by electing one of its members president, and the members of said board shall annually thereafter elect one of their number as president of said board; each president elected hereunder shall hold his office for one year and until his successor is elected.

Meetings—Quorum.—The board shall hold regular meetings at least once each week, and as many special meetings as it may deem proper, and two members of said board shall constitute a quorum for the transaction of business, and an affirmative vote of at

least two members shall be necessary to authorize any action of the board.

Commissioners are mere administrative officers for performance of certain duties subordinate to control of Common Council and exercise no legislative powers. (Kansas City vs Ward, 134 Mo. 172.)

Sec. 2. To Keep Record—Appoint Secretary.—Said Board of Park Commissioners shall keep a record of its proceedings, and shall appoint a secretary who shall not be a member of the board, and who shall hold office at the will of the board. It shall be his duty to keep all records of the board and to make such reports thereof as may be required by the board. In the absence or disability of the secretary, the board may appoint or depute a secretary *pro tempore*, who shall perform the duties of the secretary.

Records, Evidence When.—The records of the board of park and boulevard commissioners, and of the Board of Park Commissioners, as heretofore constituted under previous charters of said city, and kept by the secretaries of said boards, as well as all records of the Board of Park Commissioners hereby created and constituted kept by the secretary of said Board of Park Commissioners, or copies of any such records when duly certified to by the secretary of said last named board shall be competent evidence of the proceedings of said board.

Record is competent evidence | App. 509; St. Louis Gas Light Co. vs
(Fruin-Bambrick Co. vs Geist, 37 Mo. | St. Louis, 84 Mo. 202.)

Sec. 3. Board to Appoint Chief Executive Officer—Qualifications and Duties of.—The board shall also appoint a chief executive officer under the board who may or may not be a landscape architect and who shall hold office at the pleasure of the board, and who shall, in behalf of said board, have charge, supervision, and direction of all work, and of all officers and employes under said board, and may dismiss any officer or employe under him, except the secretary of the board.

Other Officers.—Said board of park commissioners may, also, subject to the civil service laws, rules and regulations, prescribed by and provided for in this Charter, appoint and employ such other officers and employes as it may deem necessary, and shall prescribe and fix their duties.

Sec. 4. Execution of Maps, Plats and Contracts—Warrants, How Executed—By-Laws.—The president, and in his absence or disability, any other park commissioner appointed president *pro tempore* by resolution of the board, is authorized to sign, execute and acknowledge in the name of the board, all maps, plats, contracts, or documents of any character required or authorized by this article, and to sign requisitions upon the Auditor for warrants upon the City Treasurer for funds under control of, and to be expended by said board; all warrants shall be countersigned by the secretary, and in his absence or disability, by some member of the board, other than the president or president *pro tempore*. Said board shall have power, and it shall be its duty, to make by-laws, rules and regulations for the orderly transaction and conduct of its business, and to make and enforce contracts in the name of the city to carry out the purposes expressed in this article.

Sec. 5. System of Parks, Parkways and Boulevards—General Powers and Duties of Board.—Said Board of Park Commissioners shall have power, and it shall be its duty, to devise and adopt a system of public parks, parkways and boulevards, for the use of the city and its inhabitants, and to select and designate lands to be used and appropriated for such purposes within or without the city limits, and to select routes and streets for boulevards, and to cause the same to be opened, and widened, as hereinafter set forth, and by and with the approval and authority, by ordinance of the Common Council, to lease, purchase, condemn or otherwise acquire, in the name of the city, lands for parks, parkways, boulevards, or public squares, and by and with the approval and authority, by ordinance, of the Common Council, to establish, change, or re-establish the grade of any boulevard or parkway, and to require any railway upon or across such boulevard or parkway to be brought to the grade so established, changed or re-established.

Change of Grade.—No change shall be made in the grade of any street upon which any park land abuts, unless the Board of Park Commissioners shall approve such change of grade.

Public parks in cities are essential to health, comfort and prosperity of their citizens. They are a public use, within meaning of constitution, for which land of citizens may be taken upon payment of just compensation. They confer general benefit upon all

citizens and special and peculiar benefit upon owners of real estate in immediate vicinity. Law casts general benefit upon city and special and peculiar benefit upon property enhanced in value and violates no constitutional provision, is eminently just and proper

and within principle upon which special assessments for local benefits from such improvements have been uniformly sustained. (*Kansas City vs Ward*, 134 Mo. 172, l. c. 177; *Shoemaker vs U. S.*, 147 U. S. 282; *Craig-hill vs Lambert*, 168 U. S. 611.)

Parks are a local improvement. Sections 3, 4, 11 and 12 of Article X of the constitution limiting rate of taxation and debt creating power have no application to assessments for park purposes. (*Kansas City vs Bacon*, 147 Mo. 259, l. c. 282.)

Power to condemn lands for park or boulevard purposes is primarily conferred by constitution and charter framed in pursuance thereof. (*Kansas City vs Marsh Oil Co.*, 140 Mo. 458, l. c. 466.)

Charter provisions of Kansas City upon subject of acquisition of public parks have been often before Supreme Court of State and have always been held to be in harmony with Constitution and laws of state. (*Kansas City vs Ward*, 134 Mo. 172; *Kansas*

City vs Marsh Oil Co., 140 Mo. 458; *Kansas City vs Bacon*, 147 Mo. 259; *Kansas City vs Bacon*, 157 Mo. 450; *Kansas City vs Mastin*, 169 Mo. 80 l. c. 86; *Corrigan vs Kansas City*, 211 Mo. 608; *Field vs Kansas City*, 211 Mo. 662; *Brunn vs Kansas City*, 216 Mo. 108.)

Method and provision for widening boulevards approved and held constitutional. (*Jaicks vs Merrill*, 201 Mo. 91.)

It is competent for Council to define benefit district and assess benefits against real estate benefitted and it is not necessary that park be paid for by general taxation of whole city. (*Kansas City vs Bacon*, 147 Mo. 259, l. c. 274.)

Adoption of system of parks is not prerequisite to condemn lands for parks. (*Kansas City vs Mastin*, 169 Mo. 80, l. c. 93.)

City may acquire property outside of city yet conveniently near for park purposes. (*Haeussler vs St. Louis*, 205 Mo. 656, l. c. 681.)

Sec. 6. Management of Parks, Boulevards and Public Grounds—Sidewalks—Common Council—Regulation of Traffic By.—Said board of park commissioners shall also have power to superintend, control and manage any and all parks, parkways, and boulevards, belonging to or under control of the city, and such other public grounds and thoroughfares as may, upon recommendation of the Board of Park Commissioners, be placed under control and management of said board, and to construct, improve, adorn, regulate and maintain the same in such manner as it may deem best, and to establish a width of sidewalks on all boulevards and parkways. And the Common Council shall have power, and it shall be its duty, upon the recommendation of the Board of Park Commissioners, to pass ordinances for the regulation and orderly government of such parks, parkways and boulevards, and to prescribe fines and penalties for the violation of such ordinances. And the Common Council may, upon the recommendation of the board as aforesaid, regulate the traffic on all boulevards, parkways, avenues or roads under the control of said board, and it may regulate the width of tires on all vehicles used on or passing over the same, and may exclude heavy traffic or any kind of vehicle therefrom.

Control of city over parks is discretionary and is matter of local concern. Park is held by city not in po-

litical or governmental capacity but in quasi private capacity. City may make contract for exclusive privilege

of selling refreshments and intoxicating liquors in parks and such use is not diversion of legitimate uses of parks. Contract in question held not to be a lease. Contract is not special

privilege. Dram shop regulations do not apply to license to sell liquors in public parks. (State ex rel. vs Schweickardt, 109 Mo. 496; See Section 39.)

Sec. 7. Park Districts—Boundaries of.—The territory within the city limits, as said limits are described in this Charter and so long as said limits remain unchanged, is hereby divided into five park districts, to be known as: "West Park District," "North Park District," "South Park District," "Westport Park District," and "East Park District;" the boundaries of which park districts shall be the same as those heretofore established for the said park districts under the Charter of Kansas City and ordinances thereof, in effect prior to the adoption of this Charter, and which boundaries are and shall be as follows:

Of the West Park District: Beginning at a point where the western boundary line of the State of Missouri intersects the center line of the main channel of the Missouri River; thence eastwardly with the meanderings of the center line of the main channel of the Missouri River to the intersection with the prolongation north of the center line of Delaware Street; thence in a southerly direction along the prolongation north of the center line of Delaware Street, and the center line of Delaware Street to the center line of Ninth Street; thence eastwardly along the center line of Ninth Street to the intersection with the center line of Main Street south of the junction of Main and Delaware Streets; thence in a southerly direction along the center line of said Main Street to the south line of the north half of section number seventeen, township number forty-nine north, range number thirty-three west; thence west along the center line of and through sections number seventeen and eighteen in said township and range to the western boundary line of the State of Missouri; thence north along the western boundary line of the State of Missouri to the point of beginning.

Of the North Park District: Beginning at a point where the center line of Delaware Street produced north intersects the center line of the main channel of the Missouri River; thence southwardly along the center line of Delaware Street to the intersection with the center line of Ninth Street; thence eastwardly along the center line of Ninth Street to the intersection with the center line of Main Street south of the junction of Main and Delaware Streets; thence in a southerly direction along the center line of Main Street to the

intersection with the center line of Fifteenth Street; thence eastwardly along the center line of Fifteenth Street to the center line of the east half of section number three, township number forty-nine north, range number thirty-three west; thence north along the center line of the east half of said section number three to the north line of said section number three; thence north and parallel with the center line through the east half of section number thirty-four, township number fifty north, range number thirty-three west, to the north line of said section number thirty-four; thence east to a point one hundred and thirty feet east of the north and south center line of the east half of section number twenty-seven, township number fifty north, range number thirty-three west; thence north on a line parallel to the north and south center lines of the east halves of sections number twenty-seven and twenty-two, township number fifty north, range number thirty-three west, to the center line of the main channel of the Missouri River; thence westwardly with the meanderings of the center line of the main channel of the Missouri River to the place of beginning.

Of the South Park District: Beginning at the intersection of the center line of Fifteenth Street with the center line of Main Street; thence south along the center line of Main Street to the intersection with the south line of the north half of section number seventeen, township number forty-nine north, range number thirty-three west; thence east along the center line of and through sections number seventeen, sixteen and fifteen, said township and range, to the southeast corner of the west half of the northeast quarter of said section number fifteen; thence north along the center line of the east half of sections number fifteen, ten and three, said township and range, to the center line of Fifteenth Street; thence west along the center line of Fifteenth Street to the point of beginning.

Of the Westport Park District: Beginning at a point where the western boundary line of the State of Missouri intersects the southern boundary line of the West Park District in Kansas City, Missouri; thence south and along said western boundary line of the State of Missouri to a point one hundred and eighty feet south of and at a right angle to the south line of section number nineteen, township number forty-nine north, range number thirty-three west; thence east on a line parallel to the south line of section number nineteen, township number forty-nine north, range number thirty-three west, to a point one hundred and eighty feet west of the north and

south center line of section number thirty, township number forty-nine north, range number thirty-three west; thence south on a line parallel to the north and south center line of section number thirty, township number forty-nine north, range number thirty-three west, to a point one hundred and eighty feet south of the east and west center line of section number thirty, township number forty-nine north, range number thirty-three west; thence east on a line parallel to the east and west center line of section number thirty, township number forty-nine north, range number thirty-three west, to a point one hundred and eighty feet west of the east line of section number thirty, township number forty-nine north, range number thirty-three west; thence south on a line parallel to the east line of section number thirty, township number forty-nine north, range number thirty-three west, to a point on the east and west center line of the south half of section number thirty, township number forty-nine north, range number thirty-three west; thence east along the center line of the south halves of sections number thirty, twenty-nine, twenty-eight and twenty-seven, township number forty-nine north, range number thirty-three west, to a point one hundred and sixty feet east of the west line of section number twenty-seven, township number forty-nine north, range number thirty-three west; thence north on a line parallel to the west line of sections number twenty-seven and twenty-two, township number forty-nine north, range number thirty-three west, to a point one hundred and sixty feet south of the north line of section number twenty-two, township number forty-nine north, range number thirty-three west; thence east on a line parallel to the north line of section number twenty-two, township number forty-nine north, range number thirty-three west, to a point one hundred and sixty feet east of the north and south center line of section number twenty-two, township number forty-nine north, range number thirty-three west; thence north on a line parallel to the north and south center lines of sections number twenty-two and fifteen, township number forty-nine north, range number thirty-three west, to a point one hundred and sixty feet south of the east and west center line of section number fifteen, township number forty-nine north, range number thirty-three west; thence east on a line parallel to the east and west center line of said section number fifteen to a point one hundred and sixty feet east of the north and south center line of the east half of section number fifteen; thence north on a line parallel to the north and south center line of the east half of said section number fifteen, to the east and west center line of said section number fifteen; thence west along

the east and west center line of the said section number fifteen and west along the southern boundary lines of the South Park District and of the West Park District in Kansas City, Missouri, to the point of beginning.

Of the East Park District: Beginning at a point where the east and west center line of section number fifteen, township number forty-nine north, range number thirty-three west, intersects the north and south center line of the east half of said section number fifteen, said last-described line being also the eastern boundary line of the South Park District in Kansas City, Missouri; thence east along the east and west center line of said section number fifteen, to a point one hundred and sixty feet east of the north and south center line of the east half of said section number fifteen; thence north on a line parallel to the north and south center line of the east half of section number fifteen, township number forty-nine north, range number thirty-three west, to a point one hundred and sixty feet south of the north line of section number fifteen, township number forty-nine north, range number thirty-three west; thence east on a line parallel to the north lines of sections number fifteen and fourteen, township number forty-nine north, range number thirty-three west, to a point one hundred and sixty feet east of the north and south center line of the east half of section number fourteen, township number forty-nine north, range number thirty-three west; thence north on a line parallel to the center line of the east halves of sections number fourteen and eleven, township number forty-nine north, range number thirty-three west, to a point one hundred and sixty feet south of the north line of section number eleven, township number forty-nine north, range number thirty-three west; thence east on a line parallel to the north lines of sections number eleven and twelve, township number forty-nine north, range number thirty-three west, and section number seven, township number forty-nine north, range number thirty-two west; to a point one hundred and sixty feet east of the north and south center line of section number seven, township number forty-nine north, range number thirty-two west; thence north and parallel to the center lines of sections number seven and six, township number forty-nine north, range number thirty-two west, to the north line of section number six, township number forty-nine north, range number thirty-two west; thence west along the north line of section number six, township number forty-nine north, range number thirty-two west, to the north and south center line of section number thirty-one, township number fifty north, range number thirty-two west; thence north and

along the north and south center line of section number thirty-one, township number fifty north, range number thirty-two west, to the north line of section number thirty-one, township number fifty north, range number thirty-two west; thence west along the north line of section number thirty-one, township number fifty north, range number thirty-two west, and the north lines of sections number thirty-six, thirty-five and thirty-four, township number fifty north, range number thirty-three west, to a point on the eastern boundary line of the North Park District in Kansas City, Missouri; thence south along the eastern boundary lines of the North Park District and of the South Park District in Kansas City, Missouri, to the point of beginning.

New Park Districts.—Whenever and as often as the city shall extend or change its limits, the Common Council shall have power, by ordinance, upon recommendation of the Board of Park Commissioners to divide the added territory into new park districts, or to add the same to districts already established.

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| Council may define benefit district and assess benefits against real estate benefitted and it is not necessary that | park be paid for by general taxation of whole city. (Kansas City vs Bacon, 147 Mo. 259, 1. c. 274.) |
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Sec. 8. Lands for Parks and Boulevards, How Acquired.—It shall be the duty of the Board of Park Commissioners to provide at least one park in each park district, and to purchase or otherwise acquire, with the concurrence of the Common Council, as herein provided, real estate therefor; and the Common Council is hereby authorized and empowered to provide by ordinance for the purchase, condemnation or otherwise obtaining of land within the city limits, and for the purchase or otherwise obtaining of land without the city limits, for public parks, parkways, and boulevards, and to establish the same, provided the acquisition of such land for such public parks, parkways and boulevards, and the establishment of the same, be first recommended by the Board of Park Commissioners. And whenever said board shall select and recommend to the Common Council any acquisition of any land for parks, public squares, parkways or boulevards, it shall be the duty of the Common Council upon such recommendation to proceed forthwith, by ordinance, to provide for the establishment and acquisition by purchase, condemnation or otherwise, as it may deem best, of such land for parks, parkways or boulevards as may be selected by said Board of Park Commissioners. Payment for any such land so selected and acquired, whether within or without the city limits, may be made out of the general fund, or by the

issue and sale of bonds of the city as may be provided by ordinance of the Common Council subject to the Constitution and laws of the State; or payment for land so selected and acquired for such purposes within the city limits may be made as hereinafter provided.

Sec. 9. Special Assessments for Acquiring Parks and Boulevards.—The parks, parkways, public squares and boulevards, established in any park district or districts within the city limits, whether acquired by purchase or condemnation, may be paid for by special assessments upon the real estate situated therein found benefited thereby as hereinafter authorized. Such special assessments may be made payable in such manner and at such time or times as may be provided by ordinance of the Common Council upon the recommendation of the Board of Park Commissioners.

Benefit, How Assessed.—If the Common Council, with the concurrence of the Board of Park Commissioners, shall, by ordinance, find and determine that the establishing of any park, parkway or boulevard, is a benefit to more than one park district, or part or parts thereof, the cost thereof may be assessed upon the real estate found benefited in such park districts.

See note to Section 5.

Sec. 10. Condemnation Proceedings For Taking or Damaging Property—Assessments—Jurisdiction of Circuit Court.—Whenever the Common Council, upon the recommendation of the Board of Park Commissioners shall provide by ordinance for the purchase or condemnation of any real estate selected for a park, or for the opening, widening or extending of any boulevard or parkway, or part thereof, or for constructing and maintaining any viaduct or bridge for public use, or any parkway or boulevard, or for establishing, opening, widening, extending or altering any route or right-of-way for a sewer or for a channel of any water course necessary for the maintenance of a park or a park system, in whole or in part, and it becomes necessary to take or damage any private property for any such purpose, said Common Council shall, by ordinance, describe the private property to be purchased, taken or damaged; and in case the same is to be paid for by special assessments upon real estate, shall designate the time and mode of payment of such assessments, and shall also prescribe the limits within which private property shall be deemed benefited by the proposed improvements, and be assessed and charged to pay compensation therefor, which benefit district may include one or

more park districts, and part or parts of such district or districts. And in said ordinance, separate description of each piece or parcel of property shall not be required, but it shall be sufficient description of the property to be purchased, taken or damaged, to give a description of the entire tract by metes and bounds whether the same shall be composed of one or more than one piece or parcel. Thereupon, the City Engineer, or his assistants, aided by the landscape architect or his assistants, shall make out and deliver to the Board of Park Commissioners, a statement, by map, plat, or otherwise, containing a correct description of the several lots or parcels of private property to be purchased, taken or damaged, and containing also the names of the owners, so far as known, of such lots or parcels of land, if any, to be taken or damaged, or of any estate or interest therein, who may be such at the time of the taking effect of the ordinance providing for the taking or damaging of such private property. The proceedings for the taking or damaging of such private property for public use as herein provided and the assessments of benefits to pay for the property so purchased, taken or damaged, if the same is to be paid for by special assessments upon real estate, shall be heard and determined by the Circuit Court of Jackson County, Missouri, at Kansas City.

See Art. VI and notes.

Sec. 11. Proceedings in Circuit Court—Order, to Recite What—Directed to Whom.—When the Board of Park Commissioners shall file or cause to be filed a certified copy of such ordinance referred to in the preceding section, in the Circuit Court, or with the clerk thereof, such court shall thereupon, and upon application of the city, make an order appointing a day and place for empaneling a jury to ascertain the compensation for the property taken or damaged, and, if the same is to be paid for by special assessments upon real estate, to make assessments to pay for the property to be taken, purchased or damaged, as the case may be; which order shall recite such ordinance, or the substance thereof, and shall be directed to all persons whom it may concern, without naming them, notifying them of the day and place fixed for the empaneling of a jury, and for the ascertaining of the compensation to be paid for the property to be taken or damaged and the amount of benefits, if any, to be assessed to pay therefor or for the property purchased.

Publication of Order—Personal Service, Whom.—A copy of such order shall be published in a newspaper at the time doing the

city printing, for four successive weeks, the last insertion to be not more than one week prior to the day so fixed for said hearing. The court may, at the time of making such order, or at any time before the hearing, further order that the parties owning or having an interest in the real estate proposed to be taken or damaged, be served with a copy of said order, either by delivering to each of such owners or parties interested at any time before the day fixed therein for a hearing, a copy of the order or by leaving such copy at their usual place of abode with some member of their respective families over the age of fifteen years; and in case of corporation, by delivering a copy to the president, secretary, or some managing officer thereof, or to any agent of such corporation in charge of any office or place of business of such corporation.

Alias Order to Issue, When—Effect of Notice By Publication.—If service of such notice cannot be made on any or all of such parties as above described, within said city, when personal service is ordered by said court, the return on such notice shall so state, and thereupon an alias order specifying a different date may be made by said court, if deemed advisable, notifying such unserved parties of the fact as in case of the original notice above provided. Said cause may be continued or postponed from time to time as in civil causes in said court. It shall not be required in any case to bring in any person other than the owners of the property or those interested therein, who were such at the time of the taking effect of such ordinance; and the parties claiming or holding through or under such owners, or parties interested, or any of them, shall be bound by the proceedings as fully as if they were brought in; but any persons having an interest in the real estate to be affected by the said proceedings may, upon application and entering their appearance, be made parties thereto; but no notice of such proceedings shall, in any case, be necessary to the validity thereof, except the publication of the order as herein provided. Notice so given by publication shall be sufficient to authorize the court to hear and determine the cause and to make any finding or order, or render any judgment therein, as fully as though all the parties interested at the time of the taking effect of such ordinance, or at any time thereafter, had been sued by their proper names, and had been personally served.

Affidavit of Publisher, Prima Facie Evidence.—Affidavit by the publisher, manager, or any person connected with the newspaper in which such order was published, accompanied with a printed copy

of the notice shall be *prima facie* evidence of the publication of such order as herein required.

Policemen May Make Personal Service.—The service of such notice or order, when so ordered by the court, may be made by a policeman of the city, or by any constable or officer authorized to serve judicial writs; and any return of service by a policeman, constable or other officer, shall be evidence of the facts therein stated.

When proceeding is properly instituted and conducted. (*Kansas City vs Mastin*, 169 Mo. 80, l. c. 92.)

Proceeding not regulated by code of practice in this state. It has generally been governed by provisions special to this Charter. (*Kansas City vs Marsh Oil Co.*, 140 Mo. 458, l. c. 472, 473.)

No notice is required by constitution to be given to property owners respecting those matters which legislature itself determines or delegates to municipal authorities. Publication of notice to property owners and opportunity to be heard is due process of law. (*Meier vs St. Louis*, 180 Mo. 391.)

Publication notice properly published in paper doing city printing al-

though not newspaper with which Circuit Court has contracted for legal notices. (*Kansas City vs Mastin*, 169 Mo. 80, l. c. 92.)

Sufficiency of notice by publication. (*Kansas City vs Mastin*, 169 Mo. 80, l. c. 89, 92; *Holmes vs Kansas City*, 209 Mo. 513; see introductory note.)

Not necessary that name of property owner be set out in notice. (*Kansas City vs Ward*, 134 Mo. 172.)

See Article VI. Section 2.

Affidavit of publisher is *prima facie* evidence of publication. Any infirmity in publication must be proved. At common law newspaper does not prove itself. What necessary to overcome presumption of validity of publication. (*Ross vs Gates*, 117 Mo. App. 237.)

Sec. 12. Incorporated Companies Entitled to Common Law Jury—How Demanded—Procedure.—If any incorporated company which may be interested in the whole or in any part of the land to be taken or damaged by the said proceedings, be entitled, under the law of the land, to trial of its claims for compensation therefor by a common law jury of twelve men, it may at any time prior to the day fixed as herein provided for empaneling a jury, file in the office of the clerk of said court, a petition in which it shall state the description of the property owned or claimed by it so to be taken or damaged and the amount and nature of its claim therefor and may further state that it demands a trial before a common law jury of twelve men of its claim for compensation therefor; and if any such incorporated company shall not so file such petition before such date, it shall be deemed and taken to have waived its right of trial by a jury as aforesaid of such issue. And if any incorporated company which may under the law of the land be entitled to a trial by jury as aforesaid, shall file such petition, then the court shall cause such jury to be empaneled for the trial of such claim; and the issues to be tried by such jury shall be the actual value of the

land of such claimant taken, if any; and the amount of damage to the land of such claimant not taken, by the public use thereof, and by the use of the land taken for the purposes for which it is taken, including all that the city may, from time to time, do or cause to be done, with or upon the private property so taken or damaged. If two or more such incorporated companies interested in the land to be taken or damaged as aforesaid be entitled to trial by a common law jury as aforesaid, and shall make demand therefor as aforesaid, the court may, in its discretion, as may appear expedient, order that all such claims shall be tried at the same time before one jury, and said cause or further proceedings in the same shall be continued from time to time by the court until such issue or issues shall have been determined by the verdict of said jury.

Motion for New Trial—Appeal.—Provided, that any party to such issue which may feel aggrieved by the verdict of said jury may, within four days after the rendition of the same, file its motion for a new trial and in arrest of judgment, and said motion or motions shall be heard without delay, and after hearing the same, the court may overrule the same, or may order a new trial of such issue or issues on good cause shown; but no appeal from the judgment of the court overruling such motion shall be had therein until the final judgment of confirmation of the entire proceedings by the said court as hereinafter provided.

Jury of Six Freeholders Empaneled, When.—After the rendition of the verdict of such common law jury of twelve men, and after the hearing of the exceptions thereto on the motions for new trial or in arrest of judgment, if any there be, or if no such jury trial be demanded, then upon the day fixed by the order and notice aforesaid for empaneling a jury, or upon any day thereafter to which said cause may have been continued as aforesaid, the court shall empanel a jury of six freeholders and the cause shall proceed before such jury of freeholders empaneled to try the same as set forth in the next succeeding section.

Common law jury. (Kansas City vs Marsh Oil Co., 140 Mo. 458, l. c. 463.)

Unless motion for new trial be filed within four days and exceptions be preserved by bill of exceptions nothing

but record proper can be reviewed on appeal. (Kansas City vs Mastin, 169 Mo. 80, l. c. 87, 88; Kansas City vs Bacon, 147 Mo. 259, l. c. 275.)

Sec. 13. Defendants Other Than Incorporated Companies—Jury Trial—Minors, Etc., Appear by Guardian ad Litem—Assessments—Improvements on Property May Be Removed.—Said

court shall, upon the day fixed therefor, or upon some subsequent day, to which said cause may have been continued, empanel a jury of six freeholders of the city, who shall not be interested in the property to be taken, purchased or damaged, who shall receive the same compensation as other jurors in said court, and said jurors, upon entering upon their duties as such, shall make oath before the clerk of said court that they will faithfully and impartially ascertain the actual damages or just compensation to be paid in each case separately, as well as the benefits, if any to be assessed, under such instructions as shall, after hearing the parties, be given them by the court. And if there shall be minors, incompetents, or any other person under guardianship interested in any of the lands to be taken or damaged, or the lands to be assessed, such persons may appear by their guardians, or the court may, upon application, appoint guardians *ad litem*, who may appear in their behalf, but the failure of any such persons to so appear or to be represented by guardians *ad litem* as aforesaid, shall not in any manner affect the validity of the proceedings. The parties interested may submit evidence to said jury of freeholders and such jury may examine personally each piece of property described on such map or plat furnished as aforesaid by the city engineer, or his assistants, to the Board of Park Commissioners, and all property claimed to be damaged; and such jury may examine personally the property, if any, to be assessed with benefits, and the City Engineer, or the landscape architect, or any assistant of either of them, may accompany such jury for the purpose of pointing out the property aforesaid; and the court may continue the proceedings from day to day, or adjourn to a future day. The party owning any property taken may remove any improvements thereon, and this provision may be taken into consideration by the jury in assessing damages.

See Art. VI and notes.

Sec. 14. Compensation For Property Taken or Damaged Allowed, How.—The jury shall ascertain the just compensation to be paid as follows:

FIRST: For each piece of private property taken, when the public use thereof shall be such that the city must have exclusive control thereof, as in the case of public park, public square, parkway or boulevard, the actual value of the property taken; *Provided*, That in case any claim for compensation shall have been tried and ascertained by a common law jury as provided in section twelve of this article, any jury of freeholders in said proceeding shall accept and adopt the valuation or assessment of damages for any land taken or

damaged as assessed by said common law jury, and shall so recite the same in and as a part of any verdict thereafter rendered by any such jury of freeholders.

SECOND: For each piece of private property taken when the public use thereof may be such that the city need only have such possession and control as shall not wholly exclude the beneficial use thereof by the owner or owners, as in the case of a viaduct, bridge, or route for a sewer, and right-of-way therefor, the actual damage from the public uses specified in the ordinance.

THIRD: For all damages to each piece of private property not actually taken so as to give the city possession or control of the same, the actual amount of damages such private property may sustain from the use of the private property taken for the public use for which it may be taken, including all that the city may from time to time do or cause to be done with or upon the property so taken.

See Art. VI and notes.

Sec. 15. Benefit Assessments, How Made.—If the land to be purchased, taken or damaged as aforesaid, is to be paid for by the assessment of benefits upon real estate, whether the land acquired is to be condemned or purchased, the jury or freeholders, to pay compensation for the land purchased, taken or damaged, shall estimate the amount of benefit to the city at large, inclusive of any benefit to the property of the city, and shall estimate the value of the benefit of the proposed improvement to each and every lot, piece and parcel of private property, exclusive of the buildings and improvements thereon, within the benefit district, if any benefit is found to accrue thereto; and in case the total of such benefits, including the benefits assessed to the city at large, equals or exceeds the compensation assessed, or to be paid for the property purchased, taken or damaged, then said jury shall assess against the city the amount of benefits to the city as aforesaid, and shall assess the balance of the cost of such improvement against the several lots and parcels of private property found benefited, each lot or parcel of ground to be assessed with an amount bearing the same ratio to such balance as the benefit to each lot or parcel bears to the whole benefit to all the private property assessed.

Two questions of fact should be submitted to the jury. (1) whether real estate in district is especially benefited over property in city at large; (2) the extent of that especial benefit. (*Kansas City vs Bacon*, 147 Mo. 259, l. c. 274.)

Effect of failure to assess benefits

against railroads, public school and church property. (*Kansas City vs Bacon*, 147 Mo. 259, l. c. 280; *Kansas City vs Bacon*, 157 Mo. 450, l. c. 473.)

Numerous instructions to jury considered. (*Kansas City vs Bacon*, 157 Mo. 450.)

See Art. VI, Sec. 3, note.

Sec. 16. Verdict Shall Show What.—The jury of freeholders shall render a verdict which shall show:

FIRST: A correct description of each piece or parcel of private property taken, if any, and the value thereof, and of each piece or parcel of private property damaged, and the amount of injury thereto; and in case the property to be taken or damaged is to be paid for out of the general fund, or out of the funds belonging to the park district in which the same is situated, or from the issue and sale of bonds of the city, and not by the assessment of benefits against real estate, no further finding of the jury shall be necessary.

SECOND: If the property purchased, taken or damaged is to be paid for by the assessment of benefits upon real estate, the verdict of said jury shall also show, in compensation for the property purchased, taken or damaged, the amount, if any, assessed against the city which shall stand as a judgment against the city, and shall show the amount of benefits assessed against each piece and parcel of private property found benefited within the benefit district.

Engineer, Assessor or Architect Shall Aid Jury in Putting Verdict in Form—May Use Books of Assessor—Assessment Based on Assessed Value—Verdict Reviewed by Court—May Set Aside Same and Empanel New Jury.—The city engineer, city assessor, and landscape architect, or their assistants, shall, when required, aid said jury of freeholders to put its verdict in proper form; and said jury may use the books, plats and records in the office of the City Assessor for such purpose, and if the jury shall find that any number of tracts or parcels of land within the benefit district are benefited ratably in proportion to the assessed value thereof as shown by the books of said Assessor, they may so assess the same; and said jury shall not be discharged until its verdict shall have been reviewed by the court and is correct in form. Said verdict shall be signed by each of said jurors, and the verdict of said jury may be reviewed by said court, and said jury may be required by the court to correct any errors of description or other clerical errors; and the court may, on its own motion, or may on the motion of the city, or of any party interested in the proceedings, filed within four days after the rendition of the verdict, for good cause, set aside the verdict of said jury of freeholders, and thereupon, without further notice, may appoint a new jury of freeholders to make a new appraisalment or assessment, and fix a time and place for empaneling such other jury and for a rehearing of the whole matter; *Provided*, That the ver-

dict of any common law jury theretofore rendered in such proceeding, fixing the compensation to be paid to any incorporated company shall be accepted by such new jury of freeholders as part of its finding.

Motion for new trial must be filed within four days. (*Kansas City vs Mastin*, 169 Mo. 80, l. c. 87, 88; *Kansas City vs Bacon*, 147 Mo. 259, l. c. 275.)

Jury not required to take assessor's book as guide unless they find it proper guide. (*Kansas City vs Ward*, 134 Mo. 172.)

Sec. 17: Verdict—Confirmation—Judgment—Recitals in Judgment—Assessment, Collection of—Special Execution to Issue, When.—The verdict, unless set aside as aforesaid, shall be confirmed and judgment entered thereon that the city have and hold the property sought to be taken upon payment of the compensation assessed therefor, for the purpose specified and the ordinance providing for said improvement, and that the city pay the benefits assessed against said city, that the city recover the respective amount assessed against private property, and that the several lots and parcels of private property, and that the several lots and parcels of private property so assessed to pay compensation for the verdict stand severally charged and be bound for the payment of the respective assessments and the interest that may accrue thereon; and if said assessments are, by the ordinance aforesaid, made payable in more than one installment, the judgment shall so recite. Such judgment shall be by the clerk docketed and indexed in the books used for that purpose. And if such assessment, or any portion thereof, against any tract or parcel assessed, or any portion thereof, be not paid and discharged when the same becomes due or collectible, and shall be in default as hereinafter provided, the collection of the same may be enforced by special execution or executions against the lot, tract or parcel of land charged with the lien thereof; and such execution or executions shall issue upon the filing of the statement of the City Treasurer with the clerk of the court, showing what assessments are unpaid and collectible, and against what lots and parcels of land, and the amount or amounts due and collectible thereon.

Proceedings Under Special Execution—Recitals in.—The proceedings under such special execution or executions, shall, as far as practicable, conform to the proceedings under special executions on ordinary judgments foreclosing liens on lands, and any such execution herein authorized shall be deemed sufficient if it recites the date of the judgment, the amount assessed remaining unpaid against the tract or tracts described in such execution, states that such tract or tracts were assessed to pay compensation for private property purchased, taken or

damaged for public use, as provided in the ordinance ordering such improvement, giving the title and date of the taking effect of such ordinance, and commands the sheriff to sell each tract or parcel of property described in said execution, or so much thereof as may be necessary to satisfy the assessment, interest and costs of such execution and sale. And any number of tracts and parcels included in one judgment may be sold under one and the same execution, and at the same time, and in pursuance of one notice of sale, in which case the costs of such execution and sale shall be apportioned against the several tracts and parcels in proportion to the number of the same, included in such execution; but on any such judgment execution may, at the instance of the city, issue against one or more tracts separately at different times, or two or more tracts may be included in one execution.

Sale Under Special Execution—Certificate of Purchase—Redemption—Deed.—Upon sales made by the sheriff under any special execution he shall issue to the purchaser a certificate of purchase setting forth the substance of such special execution so far as it relates to the property described in such certificate, the date of sale, the purchaser, and the property sold, and the amount bid. Such certificate of purchase shall be delivered by the sheriff to the purchaser on payment of the amount bid, which certificate shall be executed and acknowledged by such sheriff before some officer authorized to take acknowledgments of instruments affecting real estate, and shall be filed for record in the office of the recorder of deeds of Jackson County, at Kansas City, within six months after the date of the same. If the property so sold be redeemed within one year from the date of such sale by the owner or a party interested in said property by payment to the sheriff of the amount due on said judgment, together with any taxes that may have been paid by the purchaser after such sale, and before redemption, including interest on said amounts at the rate of ten per cent per annum and costs up to the date of the redemption, no deed shall be given by the sheriff. The holder of said certificate of purchase, prior to the redemption thereof, shall have the right to pay general and special taxes and special assessments against the property described in said certificate of purchase when the same are due and payable, and shall deliver the receipt or receipts therefor to the sheriff, and any redemption by the owner or party interested in such property shall include the amount of such payments with interest thereon as above provided. Upon such redemption as herein provided of any lot or parcel of land sold under

special execution, the sheriff shall give a certificate of redemption describing said lot or parcel and acknowledging receipt in full of such judgment, interest and costs, which shall be executed and acknowledged by such sheriff before some officer authorized to take acknowledgments of deeds to real estate and the cost thereof shall be included in the cost of such redemption. If the lot or parcel of land so sold be not redeemed as herein provided, a deed shall be given at the end of one year from the date of said sale by the sheriff to the holder of said certificate. Such deed may be given to the original holder or his assignee, and shall vest in the grantee all the right, title, interest and estate in the lot or parcel so sold.

Sec. 18. Appeal—Bond—Filed, When—No Writ of Error Allowed.—Any party aggrieved by any verdict and judgment aforesaid may take an appeal therefrom by filing such affidavit as is required in the appealing of civil cases and filing a bond in such sum and with such security as may be approved by the Circuit Court, or judge thereof, conditioned that the party appealing, should the judgment be affirmed by the Appellate Court, or such appeal be dismissed, pay all costs of such appeal. The bond and affidavit for such appeal, however, shall be filed within twenty days from the rendition of the judgment of confirmation of the verdict, and the appeal shall be perfected within sixty days from the date of said judgment, unless further time be granted by the court. In case of appeal, the judgment shall stand suspended until the appeal is disposed of, and no interest shall be allowed or collected on the judgment or on the assessments until such judgment be affirmed or appeal be dismissed. No writ of error shall be allowed. The clerk of the Appellate Court shall put such case on the docket for hearing at the next term of that court after the appeal is allowed. No error nor defect not affecting the rights of the appellant shall work a reversal of the judgment.

Unless motion for new trial be filed within four days or exceptions be preserved by bill of exceptions nothing but record proper can be reviewed on appeal. (Kansas City vs Mastin, 169 Mo. 80, l. c. 87, 88; Kansas City vs Bacon, 147 Mo. 259, l. c. 275; St. Louis vs Lawton 189 Mo. 474.)

Where one party interested in result of proceedings appeals all other parties, though not appealing, are equally bound by result in appeal as though they had joined therein. (Kansas City vs Mulkey, 176 Mo. 229, l. c. 247.)

Land owner is not entitled to recover interest until affirmance of judgment notwithstanding R. S. 1899, Section 3707, R. S. 1909, Section 7181, providing for payment of interest on judgment. (Brunn vs Kansas City, 216 Mo. 108; Shoemaker vs U. S. 147 U. S. 282.)

The mortgagee or other person interested in property or fund paid into court is entitled to interest to date of payment. (Kansas City vs Trust Co., 110 Mo. App. 647.)

Sec. 19. Ordinance May Be Repealed, When.—The Common Council shall have the power, with the concurrence of the Board of Park Commissioners, at any time before any of the parties assessed with benefits shall have paid the amount so assessed, to repeal the ordinance ordering the proposed improvement, if such repeal be deemed for the best interests of the city; and in such event the judgment for compensation and benefits shall be void.

Power to repeal ordinance. (*Brunn vs Kansas City*, 216 Mo. 108.)

Where there is a valid subsisting and final judgment in condemnation proceedings, unappealed from, not vacated or set aside, such judgment may be interposed to bar prosecution of new proceeding for condemnation of same property for same purpose by

same corporation. (*Kansas City vs Mulkey*, 176 Mo. 229, 1. c. 252.)

In a second proceeding, whether barred or not by former proceeding, verdict or judgment of former proceeding cannot be made basis for verdict or judgment in later proceeding. (*Kansas City vs Mulkley*, 176 Mo. 228, 1. c. 253.)

Sec. 20. Copies of Verdict Delivered to City Treasurer and Comptroller—Lien of Assessments—Assessments Not Affected by Irregularity, When.—After the judgment of confirmation of such verdict and proceedings, the clerk of said court shall certify under the seal of said court to two copies of said verdict, one of which copies he shall deliver to the City Treasurer and one to the Comptroller, and said assessment for benefits, if any, against private property, shall be a lien from the date of the taking effect of the ordinance in pursuance of which said assessments are made, and such proceedings instituted, and shall attach to the several lots or parcels of land so assessed with benefits as aforesaid; and said lien shall continue against each lot or parcel assessed until the assessment against such lot or parcel has been paid or collected in full, both principal and interest. No assessment shall be defeated or affected by any irregularity affecting any other assessment or from the rendering of any other assessment invalid in whole or in part.

Assessment of benefits against private property is lien from date of ordinance and unless excepted from covenants in warranty deed executed subsequent to such date constitutes incumbrance for which covenantor must

answer to covenantee though the assessment is made after execution of deed. (*Barnhart vs Hughes*, 46 Mo. App. 318; see *Everett vs Marston*, 186 Mo. 587.)

Sec. 21. Installment of Assessments—How Fixed and Payable—Interest—City Treasurer to Furnish Statement—Installments Not Paid, Effect of.—Said assessments shall be payable in one installment, or in such number of annual installments as may be determined by the Common Council upon

the recommendation of the Board of Park Commissioners, such determination to be declared in the ordinance of the Common Council under which said proceedings are instituted. All assessments confirmed by the Circuit Court during any year ending with the thirtieth day of April, if payable in more than one installment, shall have their first installment due on the thirtieth day of June next following, and the successive installments shall be due on the thirtieth day of each succeeding June until all shall have been paid, with interest as provided by law; *Provided*, That assessments payable in one installment shall be payable without interest within sixty days after said judgment of confirmation thereof, and if not so paid, shall bear interest at the rate of eight per cent per annum from the date of the confirmation thereof, and execution may issue thereon. Installments of all assessments payable in more than one installment may be paid without interest within sixty days after the date of the judgment of confirmation of the verdict of the jury making said assessment; but if not so paid, they shall bear interest at the rate of six per cent per annum from the date of said judgment of confirmation thereof, and such interest shall be due and payable annually on the thirtieth day of June of each year; *Provided, however*, That the owner of the property charged with the payment of such assessment or any installment thereof or the owner of any interest therein, shall have the privilege of paying such assessment in full, or any installment thereof, at any time by paying all the interest thereon to a date six months after the date of said payment, except only as to any installment due within six months from the date of such payment, upon which installment interest shall be paid to maturity thereof; and on and after the first day of June of each year any statements made by the City Treasurer of taxes due or payable on any real estate shall include all assessments or installments thereof or interest thereon, due on the thirtieth day of June, of said year, and the City Treasurer shall receive payment thereof at the same time with the payment of city taxes. All installments of assessments and interest on any such installments, if not paid at maturity, shall bear interest thereon at the rate of eight per cent per annum until paid; and if any installment of any assessment, payable in more than one installment, or if interest on any installments be not paid at maturity and shall remain in default for three months thereafter, then all the unpaid installments and interest shall be collectible, together with interest thereon at the rate of eight per cent per annum from the date of the maturity of said interest or installment in default, and spe-

cial execution or executions may issue as aforesaid for the collection of all the installments and interest unpaid and the costs of such collection. Provided, that the owner or party interested may pay to the City Treasurer at any time before special execution has issued against his land, the amount of the installment or installments and interest in default with interest thereon at eight per cent as aforesaid, in which case the installments not then due shall not be affected by such default.

Rate of Interest Upon Installments, Etc., Not Affected, When.—Nothing in this section contained shall affect or change the rate of interest upon any assessment or installments of assessments made under the Charter of Kansas City prior to the adoption of this Charter and still unpaid, but all assessments and provisions thereof shall be and remain in full force and effect until the same have been paid in full.

Sec. 22. Special Assessment, When and How Paid—City Treasurer to Make Statement—Rebates Not to Apply.—The City Treasurer shall keep a record of all special assessments charged against lands hereunder. All assessments and interest thereon shall be payable at the office of the City Treasurer at any time before special execution has issued thereon, and thereafter they shall be payable to the sheriff with costs, at any time before the date of sale. The City Treasurer shall receive payment of assessments on part of any lot, parcel or piece of land, or of any undivided interest therein, or on the whole, in the same manner and to the same extent as in the case of the payment of city taxes or special tax bills, and shall make entry on his books accordingly, showing on what lot, piece or parcel of land payment has been made. When any person shall pay an assessment or installment, or part thereof, it shall be the duty of the City Treasurer to sign a receipt and duplicate receipt therefor; but it shall be sufficient if the amount paid be shown as stated in the receipt given for city taxes. The Treasurer shall immediately deliver all such receipts to the City Auditor, whose duty it shall be to countersign and deliver the original receipt to the payor, and retain the duplicate, from which he shall, from day to day, make a perfect record and account showing what sums have been received by the Treasurer for each park district, and on account of what improvement. And it shall be the duty of the City Treasurer to include in any statement of taxes due on any real estate, any special assessments or installments thereof or interest thereon which may be due on said real estate. Payment of said assessments in full to the

City Treasurer as provided in this section shall operate as a satisfaction of the judgment therefor, and the lien on the land charged therewith. The rebates provided for the payment of city taxes before the same are due shall not apply to assessments collected hereunder.

Right to authorize special assessments carries with it right to determine when and in what manner they shall be paid. (*Morrison vs Morey*, 146 Mo. 543, l. c. 567.)

Sec. 23. Assessments—Collection and Disposition of Money—Treasurer to Keep Account and Make Report.—The City Treasurer shall collect said assessments and all interest thereon and hold all moneys collected therefrom, or by sale of lands under execution as aforesaid, upon special trust to apply the same in payment of land purchased, taken or damaged as aforesaid, or in payment of park fund certificates as hereinafter provided; and any balance or surplus resulting after all such payments shall accumulate for the use of the park district or districts, and may be applied and used by the Board of Park Commissioners in its discretion. It shall be his duty to keep a separate and full account for each list of special assessments growing out of a separate proceeding as aforesaid, of all moneys received and paid out, and of all park fund certificates, if any, issued thereon, and of the payment and cancellation of the same, and of the distribution of dividends made thereon, as hereinafter set forth; and he shall make report thereof each year as part of his annual report to said city; and shall publish the same with his annual statement.

Comptroller Shall Publish Report—Duties of Treasurer.—

And the Comptroller shall publish the same with his annual statement, and the Treasurer shall make a full report as to each list of special assessments growing out of each separate proceeding as aforesaid at the date when the installment thereof becomes due, which report shall show the amount of such assessments still unpaid, together with the tracts or parcels of land against which said assessments stand, and it shall be his duty to proceed to the collection of all such delinquent assessments in the manner provided in Section 17 of this article; *Provided*, That if the holder of a majority of any series of park fund certificates issued in pursuance of this article shall require the collection of any installments of any special assessments that may be delinquent, upon which said series of park fund certificates are based, it shall be the duty of the City Treasurer to

make out a list of such delinquents and proceed to the collection of the same as aforesaid.

Moneys Received From Special Assessments, How Applied—Duties of Treasurer—Treasurer's Bond Held for Breach of Duty.—Any moneys received from special assessments upon which no park fund certificates have been issued shall be applied directly to the purposes for which said assessments were made; but the City Treasurer shall hold all funds collected from special assessments with interest thereon, if any, including annual assessments for maintenance of parks and boulevards within each park district until the same are applied to the purposes for which said assessments were made; and he shall be responsible for the safe keeping of said funds to the same extent as for other city funds, and shall keep separate accounts for each park district, and all interest accruing on daily balances shall be credited to such funds for each district; and for any breach of duty by the Treasurer or Comptroller, prescribed in this article, they shall respectively be liable for a breach of duty as in respect to other city funds; and the bond required for the Treasurer for the faithful discharge of his duties shall be held to cover also the duties regarding all moneys collected from special assessments as aforesaid, and his duties as trustee hereunder, and his bondsmen shall be liable for any breach of said trust or said duty.

Sec. 24. Park Fund Certificates—Form of.—After the confirmation by the Circuit Court, or Appellate Court on appeal, as hereinbefore provided, of any verdict in any proceeding in which special benefits are assessed against real estate as compensation for property purchased, taken or damaged for park purposes, the Common Council, upon the recommendation of the Board of Park Commissioners, and for the purpose of raising money in advance of dates when assessments are due, to pay for land purchased, taken or damaged, may provide by ordinance that the City Treasurer shall issue park fund certificates in amount not to exceed the total amount of assessments against the private property shown in any such verdict and unpaid at the expiration of sixty days from the confirmation thereof as aforesaid. Such certificates shall be in such form and for such sums as may be provided by ordinance, and shall be either payable to the order of the registered holder or be payable to bearer. Any such certificate shall entitle the holder or owner thereof to his proportionate share as shown by such certificate, of the

special assessments and the interest thereon, as the same are collected, upon which such certificates are issued, and shall so specify.

Amounts Collected, Distributed Pro Rata.—Distribution of the amounts collected upon said special assessments, including interest, shall be made to the holder or holders of such certificates *pro rata* at least semi-annually, at such specified dates as may be provided in the ordinance authorizing the issue of the same, and the holder shall receipt for such payments; and the city shall be liable on such certificates to the holders thereof for the sums collected from the special assessments upon which said certificates are issued and not otherwise.

Certificates Registered in Name of Purchaser, When.—Should the purchaser or holder elect, said certificates shall be registered by the Comptroller in the name of the owner and his assigns from time to time, and the Comptroller shall certify such registration to the holder.

Certificates Designated as Series, Numbered When.—All park fund certificates issued on account of special assessments growing out of the same condemnation or assessment proceeding, including supplemental proceedings, which shall be considered a part of the original proceeding shall be designated as a series; and if any series comprises more than one certificate, such certificates shall be numbered.

Certificates Certified by Treasurer and Attested by Comptroller—Comptroller to Keep Record.—Each of such park fund certificates shall bear the certificate of the City Treasurer and the attestation of the comptroller that the same is one of a series of certificates issued on account of certain special assessments to which such series relates, and that such series is not in excess of the same; and the Comptroller shall keep a record of all certificates issued in each series, and of all payments and dividends thereon, and shall publish the same in his annual statement, and also statements of the amounts received by the City Treasurer from assessments; and shall, at the request of the holder of any park fund certificate, certify to such holder the amount that has been collected and paid on the same from special assessments, both principal and interest.

Certificate Cancelled, When.—Immediately upon full payment and surrender of any park fund certificates, the Treasurer shall cancel the same and keep a record thereof, and deliver the same to the

Comptroller, who shall give the Treasurer a receipt therefor; but when all the special assessments represented by a series of such certificates have been fully collected so far as possible, with interest thereon, and all sums collected have been distributed as aforesaid, such certificates shall be surrendered and cancelled, and if not surrendered, shall nevertheless be void.

Validity of park certificates. (*Kansas City vs Ward*, 134 Mo. 172.)

Sec. 25. Park Certificates—Sale of—Proceeds of Sale.—The Board of Park Commissioners may sell such park fund certificates at such price not less than the face value of the amount of special assessments, excluding interest, represented by said certificates, as may be obtainable, and shall determine the manner and means of such sale. Such certificates shall be delivered by the City Treasurer to the purchaser, upon payment therefor, upon the order of the Board of Park Commissioners, specifying the price, which order shall be countersigned by the Comptroller, who shall keep a record thereof; and the proceeds of such certificates so sold shall be used for payment for land purchased or condemned for a park or for park purposes, for the establishment of which the special assessments were made on which such certificates are issued; and any surplus remaining after all such payments are made in full shall accumulate for the use of the park district or districts; but such certificates may, by agreement, be issued directly in payment for land purchased, taken or damaged for parks or park purposes.

Payment For Land Purchased or Condemned, and Park Certificates—By Warrants.—All payments made out of the city treasury for land purchased or condemned under this article, as well as payments made to the holders of park fund certificates issued hereunder, shall be made upon requisition upon the auditor for warrants signed by the Comptroller, and for all payments made by the city to owners or parties interested in land so purchased or condemned, the Comptroller shall take proper receipts from all such persons or from their duly authorized representatives.

Sec. 26. Certificates, Payment of.—It shall be the duty of the City Treasurer, Comptroller, and said Board of Park Commissioners, at all times to protect such park fund certificates by all means provided therefor, and said City Treasurer shall pay all sums collected from special assessments as aforesaid to the holders of such

certificates issued thereon, and shall pay the same promptly on demand on the dates fixed for the distribution thereof as provided by ordinance.

Sec. 27. Supplemental Proceedings to Correct Errors or Omissions—Conducted Same as Original Proceedings.—When, by reason of any error, defect or omission in any proceedings that may be instituted under the provisions of this article, a portion of the private property sought to be taken, or some interest therein, cannot be acquired, or an assessment is made against private property which cannot be enforced or collected, said Board of Park Commissioners may, and in case park fund certificates have been issued, shall, institute, carry on and maintain supplemental proceedings to acquire the right and title to such property or interest therein, intended to be taken by the first proceeding, but which cannot on account of such defect, error or omission, be acquired thereunder, or to properly assess against any piece or parcel of private property against which an assessment was in the first proceeding erroneously made, or omitted to be made the proper amount such private property, exclusive of the improvements thereon, is benefited by the proposed park or other improvements, to be determined by the verdict of the jury in such supplemental proceedings; and the original assessments may be revised, corrected, increased or diminished as may be necessary or equitable under the provisions of this article for the original proceedings. Such supplemental proceedings shall be instituted and conducted as to the particular piece or pieces of private property sought to be acquired or assessed, in like manner and with like effect as in the original proceedings, and shall be known and described as supplemental proceedings, for the purposes specified in the original ordinance; and a supplemental verdict and assessment shall be made, confirmed and two copies of the original verdict certified in every particular as in the original proceedings; and the assessments as established and corrected by such supplemental verdict shall be collected by the City Treasurer in the same manner and under like conditions and restrictions, powers and duties as in the case of original proceedings, and remain and be pledged for the payment of park fund certificates, if any, that have been issued, or that may be issued thereon.

Sec. 28. Possession of Land Taken—City Not Entitled to Until Full Payment—Decree of Title.—The city shall not be entitled to the possession of any lot or parcel of prop-

erty taken under the provisions of this article until full payment of the compensation therefor, as determined, be made or paid into court for the use of the persons in whose favor such judgment may have been rendered, or who may be lawfully entitled to the same, and upon such payment as aforesaid, such Circuit Court, or judge thereof, in which proceedings were had, shall immediately order, adjudge and decree that the title in fee to, and every other interest in the land so condemned and taken for such park, road, boulevard, avenue or public use be divested out of such owner and other persons interested and vested forever in the city, to the use of such park district or districts; and the court shall thereupon, without delay, put the city in the possession thereof, and it shall be the duty of the City Counselor, within six months after the rendition of the judgment and decree vesting the title of such land in said city as aforesaid, to cause a duly certified copy of said judgment or decree to be filed and recorded in the office of the Recorder of Deeds for Jackson County, Missouri.

When Title in Controversy—Compensation, How Determined.

—And subsequent legal proceedings shall not affect the title or possession of the city to said property so acquired, but shall only affect the question of damages and assessments for benefits, and the value to be fixed in such subsequent proceedings, if any, shall be as of the date of the original proceedings, and no improvements of the property made in the meantime shall be considered. If the title to the property taken be in controversy, the right to the compensation therefor shall be determined in a suit between the parties claiming the same, in which none of the costs of litigation shall be borne by the city, unless the city is one of the claimants, and during such controversy such compensation shall remain in the possession of the court; but the title and possession of the city to the property taken shall not be in any manner affected by such controversy.

Money assessed as benefit in condemnation proceeding and paid into court represents and stands in place of land condemned and claimants thereto have same right in money that they previously had in land. Prior assessments of benefits against land condemned must be paid out of fund. (*Buchanan vs Kansas City*, 208 Mo. 674; *Kansas City vs Trust Co.*, 110 Mo. App. 647.)

Special tax bills existing against condemned land must be paid out of fund. (*Ross vs Gates*, 183 Mo. 338.)

But see in re Paseo, 78 Mo. App. 518.

Wife who is tenant by entirety has such interest in condemned land that she can restrain its use for public purpose until she has been paid for her interest. Money paid into court with bill of interpleader to which husband and others are parties but wife is not party does not bind wife although husband may receive compensation for property. (*Holmes vs Kansas City*, 209 Mo. 513.)

Sec. 29. Land Selected to Remain Forever For Parks and Boulevards.—The lands which may be selected and obtained under the provisions of this article shall remain forever for parks, parkways and boulevards for the use of all the inhabitants of said city.

Private property condemned or dedicated for one public use cannot be appropriated to another and different use. (*Price vs Thompson*, 48 Mo. 361, *Sugar Refining Co. vs Elevator Co.*, 82 Mo. 121 and cases there cited on

page 127, s. c. 101 Mo. 192; *Board of Regents vs Painter*, 102 Mo. 464.)

See Section 37 of this article.

Corrigan vs Kansas City, 211 Mo. 608; *Fleld vs Kansas City*, 211 Mo. 662.

See Article I, Sec. 1.

Sec. 30. Costs of Proceedings—How Paid—Counselor to Conduct All Court Proceedings.—The city shall pay all costs of proceedings under this article to take or damage private property or to levy assessments for benefits in payment of land purchased as herein provided, except costs of proceedings for collecting overdue assessments and tax bills, which shall be taxed against the real estate upon which said assessments are levied or said tax bills are issued, and except the costs upon appeal, which shall be paid by the party unsuccessfully prosecuting the same; and the City Counselor shall, personally or by any of his assistants, and as a part of his duties as such Counselor, conduct all court proceedings under this article, and shall be the legal advisor of said Board; *Provided*, That the Board may, in any special case, upon request of the City Counselor, or when in its judgment the interests of the city demand, employ, temporarily, special counsel to assist the City Counselor.

Assessments Not Collected, City May Pay.—If the city fail to collect any assessments, in whole or in part, it may pay the amount not so collected out of the city treasury.

Sec. 31. Roads, Parkways, Boulevards or Avenues, Bridges, Viaducts and Sidewalks—May Be Maintained and Repaired—Proceedings.—The Board of Park Commissioners shall have power to cause any road, parkway, boulevard or avenue, or part thereof, which may be under its control and management, to be graded, re-graded, paved, re-paved, curbed, re-curbed, guttered, re-guttered, or otherwise improved, repaired and maintained, including the construction, repair and maintenance of bridges, viaducts and sidewalks, and the rodding of sidewalk spaces, and the planting of trees and shrub-

bery in such manner and at such times, and with such material as the said Board may determine, and may pay for such work or improvements, or any part thereof, out of the funds not otherwise appropriated, belonging to the park district in which said work or improvement is done or made, or out of the general park fund; *Provided, however,* That if the Board of Park Commissioners shall, by resolution, determine that any such work shall be done, and that the payment of the whole or any part thereof be made in special tax bills, the Common Council shall have the power, by ordinance, to ratify and confirm the action of said Board, and authorize such work to be done, in which case and when so ratified the Board of Public Works of said city shall apportion or cause to be apportioned the cost of said work or improvement, and issue special tax bills therefor, or for any portion thereof, so ordered to be paid in tax bills, in the same manner and with the same effect as the cost of similar work or improvements is apportioned and tax bills in payment therefor issued in such city for public improvements or work upon streets not under the control or management of such Board of Park Commissioners.

Contract to Lowest Bidder.—The contract for doing the work of construction and furnishing material for any such improvement shall be let by said Board of Park Commissioners to the lowest and best bidder therefor in the same manner and subject to the same rules and regulations as similar work not under the control of the Board of Park Commissioners is let by the Board of Public Works, and all such work shall be done under the supervision and control of the Board of Park Commissioners.

No Petition or Hearing Necessary.—And no hearing shall be necessary and no petition shall be necessary to authorize any improvement provided for in this section, nor shall the power of the Board of Park Commissioners, or of the Common Council, to authorize any improvements provided herein, be affected or restricted by any remonstrance.

Work Under Contract Paid for in Special Tax Bills—Time of Beginning Work May Be Extended.—The contract for any work done under authority of this section and which is to be paid for in special tax bills shall, before it becomes binding and effective, be ratified, approved and confirmed by an ordinance of the Common Council in the same manner as

contracts for work done under the supervision of the Board of Public Works are required to be ratified, approved and confirmed; and when so ratified, approved and confirmed, any such contracts shall in all respects be considered and held to have been authorized by the city. The city shall also have power, by ordinance, for any good cause, to extend the time of the beginning or of the completion of the work under any such contract made in pursuance of this section, and an ordinance of the Common Council purporting to extend the time therefor shall be conclusive evidence of the good cause for such extension, provided such extension of time be recommended by resolution of the Board of Park Commissioners; and the Board of Park Commissioners may, by resolution, and without ratification by the Common Council, grant extensions of time on any work done under the supervision of said Board, which is not to be paid for by the issuance of special tax bills.

Damages Ascertained, When and How—Before any road, parkway, boulevard or avenue, or part thereof, which may be under the control and management of the Board of Park Commissioners, shall be graded, or re-graded, if the property owners to be disturbed or damaged thereby, shall not have waived all rights or claims to compensation for damages, proceedings shall be had for the ascertainment of the damages and benefits to arise from such grading or re-grading of said parkway, boulevard, road or avenue in the manner provided by sections two (2) and following of Article Seven (VII) of this Charter: And it shall be the duty of the Mayor and Common Council, upon the recommendation of the Board of Park Commissioners to institute such proceedings and conduct the same to a conclusion without delay.

Power of Board Not Affected by Remonstrance.—No petition or remonstrance of property owners shall affect the power of the Board of Park Commissioners and the Common Council hereinbefore granted to establish, change or re-establish the grade of any parkway or boulevard.

Sec. 32. City Not Liable by Reason of Invalidity or Error in Tax Bills, or Special Assessments.—When any work is done, improvement made or land purchased, and payment therefor is to be made in special tax bills, or in special assessments, as provided in this article, the city shall, in no event, nor in any manner whatever, be liable for or on account of such work done or improvement made or

land purchased, by reason of the invalidity or error in any such tax bill or special assessment, nor liable in any manner for the payment of the same.

Sec. 33. Maintenance and Improvements of Parks, Boulevards, etc.—Assessments for.—The real estate, exclusive of improvements thereon, in each park district, may, upon recommendation of the Board of Park Commissioners, be specially assessed annually for maintaining, adorning, constructing, repairing and otherwise improving the park or parks, parkway or parkways, road or roads, boulevard or boulevards, avenue or avenues, or portions thereof, located therein, which are under the control and management of a board of park commissioners; and such assessments may be made according to valuation and assessment for taxation of real estate in each park district made for city purposes; *Provided*, That any real estate which shall not be listed on the City Assessor's books for taxation for general city purposes, may, by order of the Common Council, be listed and valued by the City Assessor for the purposes of this assessment; *And provided, further*, That such annual assessments authorized by this section shall never exceed in any one year two and one-half mills upon each dollar of valuation as shown on the books of the City Assessor as aforesaid. Every such assessment shall be made and collected as provided by ordinance of the Common Council, and the Common Council shall have power to provide penalties for the failure to pay such assessments when due, and may provide for the sale of the property assessed to satisfy said assessments.

License, Taxes Upon Vehicles, Used Exclusively for Such Maintenance—Expended by Commissioners.—All sums derived from license taxes collected by the city for licenses upon all vehicles of every kind and class licensed by the city shall be appropriated and used exclusively for maintaining, adorning, constructing and repairing, and otherwise improving the park or parks, parkway or parkways, road or roads, boulevard or boulevards, avenue or avenues, or portions thereof, which belong to the city, and are under the control and management of the Board of Park Commissioners; and it shall be the duty of the Comptroller of the city from time to time as the said license taxes are collected and paid into the city treasury to apportion and credit the same to the maintenance fund of the various park districts, each park district to receive such

proportion thereof as the assessed value of the real estate of each park district, exclusive of improvements thereon, bears to the total assessed value of the real estate, exclusive of improvements thereon, of all the park districts; and the Board of Park Commissioners may expend the same in the same manner as the other funds raised by special assessments under the provisions of this section are expended.

(Corrigan vs Kansas City, 211 Mo. 608; Field vs Kansas City, 211 Mo. 662.)

Sec. 34. Special Assessment Per Front Foot for Maintenance, etc.—The Common Council shall also have power, upon recommendation of the Board of Park Commissioners, and for the purpose of maintaining, repairing and otherwise improving the boulevards, parkways, roads and avenues under the control and management of said Board, to levy, annually, a special assessment on the lots, tracts and parcels of land found fronting and abutting on said boulevards, parkways, roads and avenues.

Not to Exceed, What.—No such annual assessment last aforesaid shall exceed the sum of ten cents per front foot of such lots, tracts and parcels of land, according to the frontage thereof on such boulevards, parkways, roads or avenues. Every such assessment last aforesaid shall be made and collected as provided by ordinance of the Common Council.

Sec. 35. Sums Used For Improving Public Parks, Etc., Paid Out of What Moneys—Power of Commissioners to Make Requisition Upon Auditor—Not to Expend Money of One Park District For Use in Another—Comptroller to Make Record of All Warrants.—All other sums used for improving any public park or parks, parkway or parkways, road or roads, boulevard or boulevards, avenue or avenues, or portions thereof, which are under the control and management of the Board of Park Commissioners, as well as all sums required for the general expenses of such board and for other park purposes, shall be paid out of moneys apportioned and appropriated from the general fund of the city, except as otherwise herein provided, such sums to be apportioned, appropriated and expended in the manner provided in Sections 27 and 28 of Article Four (IV) of this Charter. But the Board of Park Commissioners shall have power by requisition upon the Auditor for warrant upon the City Treasurer, signed by the President or President *pro tempore*, and countersigned

by the Secretary, to expend the moneys collected for construction and maintenance of the parks, parkways and boulevards in each park district and for the use of such district in pursuance of Sections 33 and 34 of this article; but it shall not, either directly or indirectly, expend the money of one park district for use in any other park district. The Comptroller shall make a record of all warrants of said Board paid by the Treasurer.

Sec. 36. Annual Report of Park Commissioners—Records and Accounts Open to Inspection.—Said board shall make an annual report to the Common Council of the acts of said Board and all its expenditures, showing the condition of all affairs under its control. The Common Council may require report from said Board at any time, and the records, books, papers and accounts of the Board shall at all times be subject to inspection by the Mayor, Comptroller, or any committee appointed by either house of the Common Council for that purpose. Said Board shall also cause to be published in pamphlet form, at least once in four years, a comprehensive report of the operations of the department, for public distribution.

Sec. 37. Streets, Opening and Vacating in Parks—Railways, Telegraphs, Electric Wires and Poles in Parks.—No roads nor streets shall be laid out or constructed through any park, except said Board of Park Commissioners shall lay out and construct or permit the laying out and construction of the same; and any road, highway, street or alley (excepting railroads) or part thereof, which may pass through, or into, or divide, or separate any land now used or condemned, or that may hereafter be acquired or condemned, for parks, shall, upon recommendation of the said Board of Park Commissioners, with the consent of the Common Council of such city, be by said Common Council vacated and closed up and made a part of such park. And no railway shall be built into, through or over any park, parkway or boulevard without the permission of the Board of Park Commissioners, the said permission to be evidenced by ordinance passed in pursuance of the recommendation, by resolution, of the Board of Park Commissioners, and to be on such terms and conditions as the Board of Park Commissioners and the Common Council may determine; nor shall any telegraph, telephone or electric light wires, or other wires, or posts or supports thereof, be erected or placed in, upon, through or over any park without the consent of said Board of Park Commissioners; and said board shall have full

power and authority to designate the place or places for and manner of erecting, placing and maintaining the same, in or upon any park or boulevard, and may cause the place and manner of maintaining the same, whether heretofore or hereafter erected or placed, to be altered at such times and in such manner as it shall deem best for the interests of the city, and may require such wires in any park, parkway or boulevard to be put and kept underground.

See Section 29.

Sec. 38. Real or Personal Property May Be Granted or Devised to City—To Maintain or Establish Parks, Boulevards, Zoological Gardens, Observatories, Monuments, etc.—Real or personal property, or the income thereof, may be granted, bequeathed, devised or conveyed to the city for the purpose of improvement or ornamentation of parks, parkways or boulevards, or for the establishment or maintenance in any park, or zoological or other gardens, observatories, monuments or works of art, or other park purposes, upon such trusts and conditions as may be prescribed by the grantors or devisors thereof, and agreed to by the Common Council and Board of Park Commissioners. All property so devised, granted, bequeathed or conveyed, and rents, issues, profits and income thereof, shall be subject to the management and control of said Board of Park Commissioners.

Devises Upon Conditions, When.—Real estate may also be devised or conveyed to the city for the purpose of parks, parkways or boulevards, or additions thereto, upon such conditions, including exemption from the payment of benefits or assessments for such improvements, as may be prescribed by the grantors or devisors thereof; *Provided*, That the location of such real estate be acceptable, and the conditions of the conveyance be agreed to by the Common Council and Board of Park Commissioners.

See Article I, Section 1.

Sec. 39. Structures Within Parks, etc., Erected and Maintained Only by Board of Commissioners.—Neither the Common Council nor the Board of Park Commissioners shall have authority to permit any person, firm or corporation, to build or maintain any structure within any park, square or parkway, which may now or hereafter be under the control or management of the Board of Park Commissioners; nor shall any structure be erected or maintained within any park, square or

parkway, excepting such structures or buildings as may be erected by the Board of Park Commissioners, under its authority, in the public parks, under their jurisdiction, for park uses or park pleasure purposes, and excepting also such statues, monuments, works of art, or other structures intended for ornamentation only, as may be erected by authority of the Board of Park Commissioners, in the parks, boulevards, parkways or roads under the jurisdiction and control of the said Board.

Board May Lease Buildings for Park Purposes—Spirituous Liquors Forever Barred—Term of Lease—Concessions—Musical Entertainments, etc.—Nor shall any part of any park or public ground under the supervision or control of said Board be leased to any person, firm or corporation for any purpose, but the Board may lease any building or parts thereof, erected by it for park purposes, to any person undertaking to serve such purposes, and may grant concessions therein for the sale of refreshments to the public using said park, and for other park purposes, upon such terms and under such regulations as the Board may prescribe; *Provided, however,* That the sale of spirituous, vinous or malt liquors or other intoxicating beverages shall never be permitted within any park, square or public ground under the control and management of said board. No lease shall be for a longer term than three years. No concession shall be granted for any purpose not within the objects for which said parks, squares and grounds were acquired by the city, and in every such lease the Board shall reserve the right to enter at all times into and upon the premises so leased, and shall make the condition that the building so leased shall be used only for the purposes expressed in such lease, and no shows or exhibitions of any character or kind shall be allowed or given in any park, square, or public ground of the city under the control of said Board; but this shall not inhibit such musical entertainments, concerts, and zoological or other exhibits as may be provided by the Board of Park Commissioners in any park, for the use and enjoyment of the public and for strictly park purposes.

Money Derived From Leases and Concessions, How Expended.—All moneys derived from any leases or concessions or from the sale of the products obtained from any park, or of any personal property in use by, or belonging to, said department of parks and boulevards, shall be paid into the treasury of the city, and be credited

to the fund in control of the Board of Park Commissioners, and be used and expended by said Board for park purposes.

Deed of "Swope Park," Ratified.—Nothing herein stated shall authorize the sale of any lands or be held to abrogate the conditions specified in the deed of gift of the land known as "Swope Park" heretofore granted to the city by the Honorable Thomas H. Swope, but said deed and acceptance thereof, and all conditions contained therein are hereby ratified and confirmed, which conditions, so far as they may be in conflict with this article, shall be considered as exceptions to the provisions hereof.

Control of city over parks is discretionary and is matter of local concern. Park is held by city not in political or governmental capacity but in quasi private capacity. City may make contract for exclusive privilege of selling refreshments and intoxicating liquors in parks and such use is

not diversion of legitimate uses of parks. Contract in question held not to be a lease. Contract is not special privilege. Dramshop regulations do not apply to license to sell liquors in public parks. (State ex rel. vs Schweickardt, 109 Mo. 496.)

Sec. 40. Adorning, Beautifying and Improving City—Fixing Building Restrictions—What Restrictions May Limit, etc.—To Apply to, What—Petition for.—For the purpose of adorning, beautifying and improving said city, and to the end that the public good may be conserved the Common Council shall have power, upon the recommendation of the Board of Park Commissioners, to establish and fix building restrictions on any boulevard, parkway, road or avenue, or any part thereof, under the control and management of the Board of Park Commissioners. Said restrictions may be to limit, confine or exclude and prohibit the carrying on of any business vocation or vocations, or the erection and maintenance of any factories, stores or business houses on the lots, tracts or parcels of land fronting or abutting on such boulevard, parkway, road or avenue, or any part thereof, or within fifty feet of the same, or to establish a building line on such property to which all buildings, fences, or other structures shall conform. And said restrictions may be made to apply to all property fronting or abutting of any boulevard, parkway, road or avenue, or part thereof, along which the same are established, or may provide for excepting from such restrictions any property or lot, piece or parcel of land; *Provided, however*, That no restrictions shall be fixed as herein provided unless the owners of a majority in front feet of the lands fronting or abutting on any such

boulevard, parkway, road or avenue, or any part thereof, upon which it is proposed to fix and establish such restrictions, shall petition therefor, stating clearly in such petition the restrictions desired. And the Board of Park Commissioners shall in its resolution, and the Common Council shall in the ordinance passed in pursuance of such resolution, fixing and establishing any restrictions, find and declare that the owners of a majority in front feet of all the lands fronting on the boulevard, parkway, road or avenue, or part thereof, on which said restriction is to be established, have petitioned therefor, and such finding and declaration shall be conclusive for all purposes, unless the court finds in the proceedings instituted for the assessment of damages and benefits as hereinafter set forth that the owners of a majority as aforesaid in front feet did not sign said petition. The owners of all property signing such petition shall be deemed to have waived all claim for damages resulting therefrom.

Establishment of New Boulevards, etc., Board May Provide for Building Restrictions.—And provided, further, that the Board of Park Commissioners, in establishing any new boulevard or parkway may, in the resolution providing for establishing of the same, also provide for establishing the building line on said boulevard or parkway without petition therefor, in which case, and if the same be approved by the Common Council, the benefits and damages may be ascertained and assessed by the jury in the condemnation proceedings for the establishment of said boulevard or parkway, and the ordinance establishing said boulevard shall also prescribe and determine the limits within which private property is benefited by the proposed establishment of said building line restrictions as hereinafter provided; but the jury shall return a separate verdict of benefits and damages arising from the establishment of said building line, and separate appeal may be had therefrom by any person aggrieved by such verdict; and an ordinance repealing such building line restrictions shall not affect the validity of the proceedings establishing such parkways or boulevards.

Damages and Benefits—Proceedings to Ascertain—Method of Collection and Payment.—When the property owners to be affected, disturbed or damaged by the fixing and establishing of any building restrictions as aforesaid upon any boulevard, parkway, road, avenue, or part thereof, are lawfully entitled to remuneration or damages under the Constitution

of the State of Missouri, and shall not have waived all right or claim thereto, the ordinance which shall provide for the fixing or establishment of any building restrictions as aforesaid, shall also prescribe and determine the limits within which said property is benefited by the proposed establishment of said building restrictions, and proceedings shall be had for the ascertainment of the damages and benefits to arise from the establishment of said building restrictions as aforesaid, in the manner provided by Sections two (2) and following of Article VII of this Charter for the ascertainment of benefits and damages in grading cases, and the provisions in said Article VII relating to the exclusiveness of the remedy therein given in grading cases, the powers of the court and jury in assessing benefits and damages, and the submission of testimony, the rights of claimants, the method of collection and payment of such benefits and damages, and the right of the city to repeal the ordinances, shall apply alike to all proceedings for the ascertainment of benefits and damages and the collection and payment of the same, in proceedings for the establishment of building restrictions as aforesaid.

This Section Not to Apply, to What.—The provisions of this section shall not affect or apply to any boulevard, parkway, road or avenue, under the control and management of the Board of Park Commissioners which shall have been established by ordinance of the Common Council upon the recommendation of said board, prior to the taking effect of this Charter, but only to such boulevards, parkways, roads or avenues as may be thereafter established.

Power of Common Council as to Fire Limits, Not Affected.—Nothing in this section shall affect the power in this Charter given to the Common Council to regulate fire limits and the kind and quality of buildings to be erected or maintained therein.

See Art. VI and notes.

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| Ordinance providing that houses fronting on certain streets shall be used for residence purposes only is | not proper exercise of municipal power to regulate use of streets. (St. Louis vs Dorr, 145 Mo. 466.) |
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Sec. 41. Restrictions May Be Removed, How.—The restrictions fixed and established by ordinance as herein provided, may be removed in full or in part by an ordinance based upon the recommendation of the Board of Park Commissioners in the same manner as is required for the establishment of said building restrictions, and a like proceeding to ascertain damages and assess benefits for said

removal in full or in part as was had for the establishment of said restrictions, said proceeding being as far as practicable the same as that required herein to establish said building restrictions, but such proceeding shall be only as to the area covered by the original proceeding.

Sec. 42. Superintendent of Buildings to Keep Map or Plat of Property Showing Building Restrictions, and to Be Governed Thereby.—The officer or department of the city charged with the superintendence of buildings shall obtain from the City Engineer, upon final judgment in any proceeding under this article, a map or plat of the property affected by said ordinance and proceedings, and shall file and keep the same in his office, in a well bound book, and shall further note on said map or plat the restrictions fixed and established by said ordinance and proceedings, and shall not, thenceforth, issue any permit for improvements or buildings in violation of the restrictions so fixed and established, so long as said restrictions remain in force, provided, that should the said restrictions be removed in whole or in part, the said officer or department shall note said removal or modification of said building restrictions on said map or plat as the same may occur, and thereafter issue permits in accordance therewith.

Provision for Penalty for Violation of Building Restrictions.—Said Common Council shall also have power to provide by fine or imprisonment, or both, subject to the limitations in this Charter set forth, for the punishment of any person violating any such building restrictions after the same have been duly established as herein provided.

Sec. 43. Repairs and Improvements—Tax Bills—Payment of.—Whenever any street or avenue not under the control of the Board of Park Commissioners, and upon which any park land under the control of said board fronts or abuts, shall be graded, re-graded, paved, re-paved, curbed, re-curbed, guttered, re-guttered, or otherwise improved or repaired, or when any drain or sewer shall be built in the sewer district in which any park land under the control of said board is situated, and tax bills have been issued against said park land or against the city on account of the benefit deemed to have accrued, under the provisions of this Charter, to said park land, or to the city on account of said park land, by virtue of any such improvement, the Board of Park Commissioners shall pay off and discharge

such tax bills, or any judgments obtained against the city on account thereof, out of the funds under the control of said Board of Park Commissioners and not otherwise appropriated; *Provided, however,* That this section shall not be construed to authorize or require said Board of Park Commissioners to pay such tax bills or judgments out of any funds belonging to the park district in which such work or improvement is made, which have been levied and collected by special assessment under the provisions of Sections thirty-three and thirty-four of this article, or either of them, for the improvement and maintenance of the parks, parkways, roads, boulevards or avenues in such park district under the control of said board. The limitation last aforesaid shall not be extended so as to affect the right of the Board of Park Commissioners to use such park district funds for the maintenance or improvement of any park, parkway, boulevard, road or avenue under the control and management of said Board of Park Commissioners, and located in any such park district.

Sec. 44. Commissioners May Take Water From Hydrants For Park Purposes.—The Board of Park Commissioners is hereby authorized to take from the hydrants and water pipes of the city, under such reasonable rules and regulations as may be prescribed by ordinance or by the water department, all water which may be required for park purposes, including all water required for sprinkling, cleaning and maintaining boulevards, parkways, roads or avenues under its control, and no charges or debits shall be made or allowed on account thereof against the funds of any park district or other funds under the control of said Board of Park Commissioners.

Sec. 45. Condemnation of Private Property—Grade to Be Established—Notice to Be Given—Proceedings—Damages.—In all cases of the condemnation of private property under the provisions of this article for the opening or establishing of any parkway, road, boulevard or avenue to be controlled by the Board of Park Commissioners, the Common Council, upon the recommendation of the Board of Park Commissioners, is hereby authorized by the same ordinance, or by separate ordinance, to establish the grade of that portion of said boulevard, parkway, road or avenue proposed to be condemned and opened or established, and to provide for the grading of the same. In such case, the notice required to be given as in this article provided for the condemnation of private property shall state that benefits and damages, if any, aris-

ing from the grading of said boulevard, parkway, road or avenue to the established grade, shall be assessed by the jury in said condemnation proceeding.

Damages Waived, When—Benefits.—In such case, if the owner of any tract or parcel of land shall not file with the said clerk a claim for damages, on account of the proposed grading of said boulevard, parkway, road or avenue, he shall be deemed to have waived the same. Such claim shall be filed on or prior to the day when the jury is empaneled to assess the damages. The jury shall find the amount of damages, if any, in such case, to any tract or parcel of private property for which damages are claimed on account of said proposed grading in the manner provided in Article Seven (VII) of this Charter, and in assessing the benefits, shall consider the benefits caused by the opening of said boulevard, parkway, road or avenue in the manner provided in this article for the assessing of benefits in taking and damaging of private property; and the benefits arising from the grading of the boulevard, parkway, road or avenue, to the proposed grade, as specified in said ordinance, shall be assessed in the manner provided in Article Seven (VII) of this Charter.

Sec. 46. Condemnation of Private Property—If Benefits Not Assessed By Ordinance, Proceedings.—Whenever the Common Council, upon the recommendation of the board of park commissioners, shall provide for the condemnation of any private property within the city for any of the purposes specified in this article; and shall not determine or provide to pay any part of the cost of the same by assessment of special benefits, it shall not in said ordinance provide for the establishment of any benefit district, and no benefits shall be assessed; and in such case, proceedings for the ascertainment of the damages or just compensation to be allowed for the land or rights or other property to be taken, shall be begun and conducted in the same manner as hereinbefore provided in this article, so far as the same may be applicable, and such damages or just compensation shall be ascertained by a jury of six disinterested freeholders as aforesaid.

Sec. 47. Ordinance of Common Council—Sufficiency of—Recommendation of Park Board.—When any ordinance of the Common Council shall be passed upon the recommendation of the Board of Park Commissioners, as herein provided, it shall not be

necessary for said ordinance to recite at length the resolution of the Board of Park Commissioners recommending the same; but it shall be sufficient to recite the fact of such recommendation by said board; and if the Common Council shall find and recite in such ordinance that said action of the Common Council has been recommended by the Board of Park Commissioners, no special tax bill or park fund certificate that may be issued, nor special assessments that may be made for work done or property purchased, taken or damaged, shall be held invalid or affected after the issuance of such special tax bill or park fund certificate, or after judgment of confirmation of such special assessment by the Circuit Court or appellate court on appeal, on the ground that such recommendation of the Board of Park Commissioners was not properly made.

Sec. 48. Proceedings of Park Board, Prior to Adoption of This Article.—Nothing in this article contained shall be deemed to impair or invalidate any of the actions or proceedings of the Board of Park Commissioners of this city prior to the adoption of this article, and in all pending matters, where the provisions of this article can so apply without injury to the interests of said city, the same shall apply as to unfinished proceedings and unexpended moneys collected or appropriated for park and boulevard purposes.

ARTICLE XIV.

HOSPITAL AND HEALTH DEPARTMENT.

Section.

1. Hospital and Health Department Established—Power of and Duties—To Enforce Laws, Make Rules, Etc.—To Have Care of Property and of Sick and Injured—Hospitals, Etc.—To Recommend Ordinances—To Direct Inspection of City—To Investigate Infectious Diseases, Order Destruction of Diseased Animals, and Buildings, When—To Abate Nuisances—To Regulate Sanitary Conditions of Cemeteries, Etc., and Disposition of Dead Bodies, Etc.—Registration of Births, Deaths and Marriages—To Make Contracts.
2. Hospital and Health Board—Term of Office—No Compensation.
3. Organization of Board—Meetings—President and Secretary—Record.
4. Rules and Regulations as to Ad-

Section.

- mission and Treatment of Sick, Insane, Etc.
5. Appointment of Consulting Physicians—Superintendent of Hospital—Health Commissioner.
6. Health Commissioner—Qualifications of—Powers and Duties.
7. Health Commissioners, Conservators of the Peace.
8. Board to Have Power to Abate Nuisance—Serving Notice to Owners of Property—Proceedings—Cost—Tax Bill.
9. Mayor's Proclamation in Case of Epidemics, Public Calamity, Etc.—Powers of Board in Such Cases—Duration of Power of Board.
10. Board to Keep Account of all Moneys—Annual Printed Report.
11. Police Department to Co-operate.

Section 1. Hospital and Health Department Established—Power of and Duties.—There is hereby established within the city a department to be known as the Hospital and Health Department, which shall have the power and it shall be its duty:

(a) To enforce the laws of the State of Missouri, ordinances of Kansas City, Missouri, and the provisions of this Charter relating to public health; and to make such rules and regulations, not inconsistent with other provisions of this Charter, as will tend to preserve and promote the public health—

(b) To have the care, management and control of all buildings and property heretofore and now used and known as city hospitals and all lands and premises used in connection therewith, and, also, of all property and institutions now, or hereafter, owned or controlled by the city for the care and treatment of sick and injured persons; for the

support, maintenance and confinement of insane persons, and for maintenance and support of poor persons; and to locate, establish and maintain quarantine hospitals and stations within, or outside of, the corporate limits of the city, and to have the custody of all persons confined in any such institutions;

(c) To recommend to the Common Council the passages of such ordinances as said department may deem necessary for the preservation of the public health and care of sick or injured.

(d) From time to time, and as often as the board may deem advisable, to direct inspection of every part of the city and its environs, with a view to the maintenance of its sanitary condition, and for such purposes to enter, in the day time, any public building or premises, and, also, after such reasonable notice to the owner or occupants, as the board may prescribe, any private building or premises, within the city; and shall have charge of the inspection of dairies, milk, meat and all food stuffs, and all water supplies for drinking purposes; and enforce all pure food laws;

(e) To investigate the nature of all contagious or infectious diseases, and to take measures to prevent their development and continuance; and, if necessary to the public health and safety, to order the destruction of animals that are suffering from any contagious or infectious disease and of the buildings within which they have been sick of such disease;

(f) To abate, or order to be abated, all nuisances found in or upon, the streets, alleys, lots, buildings or premises within the city;

(g) To regulate the sanitary condition of all morgues, cemeteries, crematories, vaults and burial places within the limits of the city, and the disposition of dead bodies of persons and animals;

(h) To provide for registration of births, deaths and marriages occurring within the city;

(i) To make contracts, not inconsistent with other provisions of this Charter, and for periods of time not exceeding ten years each, for the removal and disposal of garbage, offal and other offensive materials accumulated or deposited within the city limits.

See Article III, Section 1, Cl. 32.

Council cannot appropriate money to charitable institutions not under control of city. (*Hitchcock vs St. Louis*, 49 Mo. 484.)

Insane Asylum of city of St. Louis

is a private institution belonging to and controlled by city of St. Louis. It is not included under general statute as eleemosynary institution of state. (*State ex rel. vs Seibert*, 123 Mo. 424.)
"None of the objects sought to be

secured by the Charter are of more importance than the health of its inhabitants, and ordinances having such in view have been often upheld as an exercise of the police power of the state delegated to the city." (St. Louis vs Llesing, 190 Mo. 464, 1. c. 480.)

Quarantine regulation not invalid as interfering with interstate commerce. (St. Louis vs Boffinger, 19 Mo. 14; St. Louis vs McCoy, 18 Mo. 238.) Nor as a delegation of the law making power of the government. (Metcalf vs St. Louis, 11 Mo. 102.)

The right of city to quarantine does not include right to seize private property without compensation and an action will lie for seizing a hotel and converting it into a pest house. (Barton vs City of Odessa, 109 Mo. App. 76.)

City may lease building for quarantine hospital and is liable for rent therefor even though it be not used. (Aull vs City of Lexington, 18 Mo. 401.)

Christian Scientist is not a physician and is not liable under ordinance requiring physicians to report contagious diseases to the board of health. (Kansas City vs Baird, 92 Mo. App. 204.)

City has power as health regulation to pass an ordinance requiring owners or occupants of lots to remove all weeds over a foot high. Held not necessary to determine whether sun flowers are weeds within meaning of ordinance. (St. Louis vs Galt, 179 Mo. 8.)

See Article III, Section 1, Cl. 15.

Inspection of Food. Ordinance prohibiting sale of skimmed milk is valid exercise of police power. (Kansas City vs Cook, 38 Mo. App. 660.)

City has right to fix reasonable standard of purity of milk and cream sold within city and to prohibit sale of quality inferior to that fixed by ordinance and to exact regulation fee and occupation tax. (St. Louis vs Llesing, 190 Mo. 464; St. Louis vs Grafeman Dairy Co., 190 Mo. 492; St. Louis vs Reuter, 190 Mo. 514.)

City may prohibit use of coloring matter whether it increases or lessens wholesomeness of milk. (St. Louis vs Polinsky 190 Mo. 516.)

May prohibit preservatives. (St. Louis vs Schuler, 190 Mo. 524.)

City cannot require higher standard than is made by state statute. (St. Louis vs Klausmeyer, 213 Mo. 119.)

See Article I, Section 1.

Sec. 2. Hospital and Health Board—Term of Office—No Compensation.—Said department shall be under the management and control of a hospital and health board, whose term of office shall be for a period of three years; *Provided*, That the members of the board first appointed hereunder shall, as soon as practicable, so classify themselves by lot that the term of one of such members shall expire at the end of one year, one at the end of two years, and one at the end of three years, from the third Monday in April, 1908. At the expiration of the term of a member, a successor shall be appointed for a term of three years from the date of the expiration of the term of his predecessor. No member of the board shall be a practicing physician or surgeon. The members of said board shall serve without compensation, and shall be selected with reference to special fitness for the position.

Sec. 3. Organization of Board—Meetings—President and Secretary—Record.—Said board shall, within ten days after its appointment, organize by the election of one of its members as presi-

dent. The board shall thereafter annually, at a regular meeting to be held within thirty days after the third Monday in April of each year, choose a president, to serve for the term of one year and until his successor be chosen and qualified. It shall also appoint a secretary, who shall not be a member of the board, and who shall serve at the pleasure of the board. The secretary shall keep a full and complete record of the official proceedings of the board, and discharge such other duties as may be required of him, from time to time, by the board, or by ordinances not inconsistent with this Charter.

Sec. 4. Rules and Regulations as to Admission and Treatment of Sick, Insane, Etc.—Said board shall establish rules and regulations for the admission of sick or injured or insane citizens, and of any person who may be taken sick, or be injured, or become insane while in the streets, or public places, or while stopping temporarily within the city, to the hospitals and institutions, and for the treatment of such persons elsewhere, and for admission of indigent citizens to such institutions as the city may provide for their use, and for the administration and government of the department, and shall provide for the necessary ambulance service and city dispensaries.

Sec. 5. Appointment of Consulting Physicians—Superintendent of Hospital—Health Commissioner.—Said board shall have the power to appoint a visiting and consulting staff of physicians and surgeons, who shall serve at the pleasure of the board, without compensation; and shall appoint a superintendent of the hospital, who shall be a licensed physician and shall have practiced for three years in Kansas City; and shall appoint, subject to the civil service laws rules and regulations contained in, and provided for, in this Charter, a health commissioner; and shall have power to appoint such superintendents, health officers, medical officials, food and other inspectors, assistants and subordinates, as may be necessary for the efficient management and conduct of said hospital and health department, subject to the provisions of this Charter.

Sec. 6. Health Commissioner—Qualifications of—Powers and Duties.—The health commissioner shall be a registered physician, and shall have resided within this city for at least three years prior to the date of his appointment. He shall be the executive officer of the board, and shall have the power, and it shall be his duty, under the supervision of the board, to exercise all powers and perform all

duties conferred upon him by the board, as provided in this article, and to perform such other duties as may be required of him, from time to time, by the board or by ordinance.

Sec. 7. Health Commissioners, Conservators of the Peace.—Members of the board, health commissioner and such subordinates as may be thereunto authorized by resolution of the board, recorded in the records of its proceedings, shall be conservators of the peace and shall have the same powers as policemen to make arrests for any violation of laws or ordinances relating to public health, and of any lawful rule or regulation of the board.

Sec. 8. Board to Have Power to Abate Nuisance—Serving Notice to Owners of Property—Proceedings—Cost—Tax Bill.—In order to effect the abatement of nuisances, or removal of any accumulated substances injurious to health, the board shall have power, whenever in its opinion such nuisance or injurious substance exists, by resolution recorded in the records of its proceedings, to order the same abated or removed, and, thereafter, to notify the owner, or owners, of the premises on which the same exists, or his or their agents, to abate or remove the same, as the case may be. Such notice shall be served upon the owner, or agent having charge of the premises, if such owner or agent can be found in the city, or by any person authorized by resolution of the board to serve the same, or by any police officer of the city, in the same manner as writs of summons are required to be served in civil cases. If such service cannot be made for the reason that the owner, or such agent cannot be found in the city, of which fact the return endorsed upon such notice of the person serving the same shall be conclusive evidence, then the board shall cause such notice to be published in the newspaper doing the city printing, for two consecutive days. Notice served in any manner herein prescribed shall be held by all courts to be sufficient service upon the owner. If the owner, or agent, who shall have been so served with notice, shall fail, within the time indicated in such notice, which time shall be fixed by said board, to comply with such order, or to show cause to such health commissioner why he cannot, or ought not to, comply with such order, for which purpose he shall have the right to be heard, within the said time, before the said board, he so requests, such owner, or agent, as the case may be, shall be deemed guilty of a misdemeanor, and, on conviction before the municipal court of the city, shall be fined not exceeding five hundred dollars;

and the board may order such nuisance, or injurious substance, abated or removed, and the cost of such abatement or removal, when fully completed, shall be ascertained under the direction of the Board of Public Works, and the Board of Public Works shall cause the same to be collected in the same manner as provided by section fifteen of article eight of this Charter. The city may also collect such special tax by suit, by foreclosing the lien thereof before the municipal court or other court of competent jurisdiction. In such suit it shall only be necessary for the plaintiff to allege the execution and delivery of such certificate to the City Treasurer and the amount and non-payment of the special tax sued for, together with the description of the particular tract of land charged therewith. The full amount of such special tax, whenever collected, shall be paid into the city treasury; provided the city may, at its option, waive the lien of such special tax bill and enforce payment of the amount of such certificate by suit in any court of competent jurisdiction as a debt due from such owner or agent to the city. In such suit the city may have judgment, also, for costs.

See Article III, Section 1, Cl. 16, and note.

In caring for the public health. (*Murtaugh vs St. Louis*, 44 Mo. 479; *Ferrenbach vs Turner*, 86 Mo. 416; *Young vs Ry.*, 126 Mo. App. 1) and the abating, preventing and removing of nuisances on private property not caused by city or its agents. (*Kiley vs City of Kansas*, 87 Mo. 103; *Armstrong vs City of Brunswick*, 79 Mo. 319) city is performing its governmental functions and is not liable for failure to perform them.

But city is liable for unnecessary destruction of property in abatement of nuisances. (*Waggoner vs City of*

South Gorin, 88 Mo. App. 25; *Allison vs City of Richmond*, 51 Mo. App. 133.)

Service of notice provided by this article. (*St. Louis vs Flynn*, 128 Mo. 413.)

Effect of finding and adjudication of board of health, how far conclusive. (*St. Louis vs Steele*, 12 Mo. App. 570; *St. Louis vs Schnuckelberg*, 7 Mo. App. 536.)

Held that state Board of Health is not judicial body, but duties are of an administrative or ministerial character and writ of prohibition will not lie. (*State ex rel. vs Goodler*, 195 Mo. 551.)

Sec. 9. Mayor's Proclamation in Case of Epidemics, Public Calamity, etc.—Powers of Board in Such Cases.—Whenever it shall come to the knowledge of the Mayor that any malignant, infectious or contagious disease or epidemic is prevalent in the city, or will probably become so, or in case a public calamity arise by reason of flood, tornado, or fire, or other disasters, he may make proclamation of such fact to the inhabitants; and after such proclamation the board shall have the power to take all steps and use all measures necessary to avoid, suppress or mitigate such disease and relieve distress caused by flood, tornado, fire, or other

disasters, without the intervention of the Council, in the same manner and as effectually as the Council could itself do by ordinance, and may employ such officers, agents, servants and assistants, establish temporary hospitals, provide necessary furniture, medical attendance, nurses, food clothing, shelter and relief, as in the opinion of the said board may be necessary and advisable; *Provided*, The amount expended shall not exceed any appropriation made for the department.

Duration of Power of Board.—The board shall have and exercise said power until it shall declare, or until the Mayor shall proclaim, that the epidemic, disease or calamity, in view of which the proclamation was made, is no longer imminent or prevalent, whereupon the said power shall cease.

Sec. 10. Board to Keep Account of All Moneys—Annual Printed Report.—The board shall keep accurate and detailed accounts in a form approved by the City Comptroller, of all monies received and expended by it, the source from which received and the purpose for which expended. It shall, at the end of each fiscal year, transmit to the City Comptroller a report of the acts of the board and condition of the business and property of the department, showing all receipts and expenditures of money since its last preceding annual report; and shall cause said report to be printed in sufficient numbers for public distribution. The Mayor, or Common Council, may require a report from said board at any time.

Sec. 11. Police Department to Co-Operate.—It shall be the duty of the police department of the city to co-operate with the hospital and health department, and at all times, at the request of the hospital and health board, to render such aid and assistance as said department may need. It shall be the duty of all policemen to report to the health commissioner, through the chief of police, the existence of any nuisance, or unsanitary condition, at any place within the city.

ARTICLE XV.

CIVIL SERVICE.

Section.

1. Civil Service Commissioners—Appointment of—Term of Office—No Compensation.
2. Civil Service Commissioners—Organization of—Prescribe Rules for Classification of Officers, Etc.
3. Exempt Service and Classified Service.
4. Exempt Service Shall Comprise, What.
5. Classified Service Shall Comprise, What—Two Classes.
6. Competitive Class, Includes What.
7. Positions in Competitive Class, How Filled.
8. Labor Class—Includes What—Vacancies—Registered List of Applicants—Requirements for Registration.
9. Public Service Commission to Keep Minutes—Duties and Powers of Commissioners.
10. Appoints to Departments of City Service—Rules—Removal of Officers—Statement in Writing of Reasons—Political or Religious Belief, Not Cause of Removal—Abuse of Power to Remove.
11. Applicants for Offices and Positions to be Examined—Subject to Exceptions—Public and Competitive—Examination, to be Practical—Not to Relate to Political or Religious Affiliations—Commission to Control.
12. Intending Competitors to File Applications—Form of—Commissioners May Refuse to Examine, When.
13. Notice of Time and Place of Examinations—Applications Filed, When.
14. Eligible List Prepared From Report of Examiners.

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15. Rules for Promotions.
16. Commission Shall Certify to Appointing Officer, the Name and Address of Candidate Standing Highest—Names Stricken Off, When.
17. Notice to Board of Appointments, Transfers, Promotions and Vacancies.
18. Incumbents of Positions at the Time This Charter Takes Effect.
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23. Soliciting or Receiving Contributions for Political Purposes in Building Occupied for Official Duties, Prohibited.
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25. Employee Not to Promise or Threaten for Giving or Withholding Contributions for Political Purposes.
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29. Board Shall Certify to Comptroller Appointments and Vacancies.
30. City Comptroller—To Draw Warrants for Salaries, How—Person Entitled to be Certified

Section.

to Comptroller—Certificate Refused, May Proceed by Mandamus.

31. Violations of Provisions of This Article, Misdemeanor—Penalty

Section.

—City Counselor to Appear in Court—Procedure.

32. Ordinances Touching Civil Service.
33. This Article to Govern Police Department, How Far.

We find no cases construing civil service laws in Missouri. Their construction and effect depend so much upon local constitutions and local statutes that decisions construing them in other jurisdictions may be misleading in construing this article. For that reason this article is not annotated.

Section 1. Civil Service Commissioners—Appointment of—Term of Office—No Compensation.—At the beginning of the fiscal year of 1910, the Mayor shall appoint three persons known to be devoted to the improvement of civil service, based on merit, who shall constitute a board of civil service, who are hereby named civil service commissioners. One to serve to the end of the fiscal year of 1911, one to serve for the term ending with the expiration of the fiscal year 1912, and one to serve for the term ending with the expiration of the fiscal year of 1913. And, whenever and as often as the term of office of any commissioner shall expire, the then Mayor shall appoint a person known to be devoted to the improvement of the civil service, based on merit, to serve as such commissioner for three years.

The members of said board shall serve without compensation.

Sec. 2. Civil Service Commissioners—Organization of—Prescribe Rules For Classification of Officers, Etc.—It shall be the duty of said board to organize immediately after their appointment by the election of one commissioner as president and by the appointment of a chief examiner; and they shall prescribe and enforce rules for the classification of the officers and employments in the classified service of the city and for appointments and promotions therein, and examinations therefor, and for the resignation and selection of laborers for employment therein, not inconsistent with the provisions of this Charter, and may amend or repeal the said rules from time to time. All rules and amendments thereto shall be published, and together with all proceedings and papers connected with said civil service system, shall, at all times, be subject to the inspection of the Mayor and City Comptroller. Subject to the provisions of this Charter and of said rules, the civil service board shall make regulations for and have control of examinations and registration for the service of the city,

and shall supervise and preserve the records of the same. The board shall annually elect one of its members as president for the term of one year.

Sec. 3. Exempt Service and Classified Service.—The civil service of the city shall be divided into the exempt service and the classified service.

Sec. 4. Exempt Service Shall Comprise, What.—The exempt service shall comprise:

First: All officers elected by the people;

Second: Sergeant at arms of the Common Council or either house thereof, the Mayor's secretary and the Mayor's stenographer;

Third: The City Auditor, the City Counselor, one assistant, the City Clerk, the City Assessor and one deputy, two deputies of the City Comptroller, three deputies of the City Treasurer, the members of the Board of Public Works, the secretary of the Board of Public Works, the Purchasing Agent, the members of the Board of Park Commissioners, the landscape architect of the Board of Park Commissioners, the secretary of the Board of Park Commissioners, the members of the Board of Hospital and Health, the Health Commissioners, the secretary of the Board of Hospital and Health, the Superintendent of the Hospitals, and all visiting and consulting physicians and surgeons, the members of the Board of Fire and Water Commissioners, the Fire Chief, the secretary of the Board of Fire and Water Commissioners, the members of the Civil Service Board, the chief examiner of the Civil Service Board, the members and officers of any public utilities commission that may be appointed from time to time. Members of the Board of Pardons and Parole and Court Sergeant.

Sec. 5. Classified Service Shall Comprise, What—Two Classes.—The classified service shall comprise all officers and positions in the city service not specifically designated in the exempt service, and shall be arranged in two classes to be designated respectively as the competitive class and labor class.

Sec. 6. Competitive Class, Includes What.—The competitive class shall include all positions now existing or hereafter created of whatever function, designation or compensation in each and every

branch of the civil service of the city, except such positions as are in the exempt service or in the labor class.

Sec. 7. Positions in Competitive Class, How Filled.—Positions in the competitive class may be filled without competitive examinations as follows:

First: Whenever there are, in the opinion of the commissioners, urgent reasons for filling a vacancy in any position in the competitive class, and there is no list of persons eligible for appointment who have successfully passed the competitive examination, the appointing officer may nominate a person to the civil service commission for non-competitive examination, and such nominee shall be certified by said commission as qualified after such non-competitive examination; but the commission shall forthwith hold a competitive examination covering such position, and such provisional appointment shall not continue for a longer period than sixty days, nor shall successive temporary appointments be made to the same position under this subdivision.

Second: In case of a vacancy in a position in the competitive class where peculiar and exceptional qualifications of a scientific, professional or educational character are required, and upon satisfactory evidence that for specified reasons competition in special cases is impracticable, and that the position can be best filled by the selection of some designated person of high and recognized attainments in such qualities, the commission may, by unanimous vote of all three commissioners, spread upon the records at the time such suspension is made, suspend the provisions of the rules requiring competition in such case, but no such suspension shall be general in its application to such position, and all such cases of suspension shall be reported in the annual reports of such commission, with the reasons for the same.

Sec. 8. Labor Class—Includes What—Vacancies—Registered List of Applicants—Requirements For Registration.—The labor class shall include unskilled laborers and such skilled laborers as may be so classified by the rules and regulations of the commission. Vacancies in the labor class shall be filled by appointment from lists of applicants registered by the Civil Service Commission. They may, in the discretion of the commission, be separate lists of applicants for different kinds of labor or employment, and the commission may establish separate labor lists for various institutions and

departments. Where the labor service of any department or institution is confined to separate districts or localities, the commissioners may provide separate registration lists for each district or locality. The commissioners shall require an applicant for registration in the labor class to furnish such evidence, or pass such examination as they may deem proper with respect to age, residence, physical condition, ability to labor, skill, capacity and experience in the trade or employment for which he applies. Where no examination is required, laborers shall be placed on the eligible list and be appointed therefrom in the order of the priority of their applications. Restrictions as to citizenship specified in this article need not be applied to the labor class.

Sec. 9. Public Service—Commission to Keep Minutes—Duties and Powers of Commissioners.—All appointments, promotions and changes of status of persons in the public service of the city shall be made in the manner prescribed by this article, unless otherwise provided in this Charter. The said commission shall keep minutes of its own proceedings and records of its examinations and other official acts. It shall be the duty of the civil service commissioners to supervise the execution of this law and the regulations thereunder and see that the same are enforced, and they shall be responsible for the correction of all abuses and irregularities growing out of the administration of said law and regulations thereunder. They may make such investigations as they deem necessary and report to the Mayor from time to time upon all matters touching the enforcement and effect of the provisions of this article; and in the course of such investigations, each commissioner and the chief examiner shall have power to administer oaths; they shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and records pertinent to the investigations and inquiries hereby authorized, and to examine them; and of such public records as they shall require in relation to any matter which they are required to investigate, and for the purpose of such examination, the board may, if it deems fit, invoke the power of any court of record in the county to compel the attendance and testifying of witnesses, and the production thereby of books, papers and records as aforesaid. They shall make an annual report to the Mayor and Common Council on or before the fifteenth day of January of each year, showing their own actions, the rules and regulations and exceptions thereto in full, and the practical effect thereof, and any suggestions they may approve for

the more effectual accomplishment of the purposes of this article. The Mayor may also require a report from the board at any other time. The board shall meet as often as the needs of the public service may require, and shall hold stated regular meetings at least once a week on such day as may be fixed by its rules. Two members of the board shall constitute a quorum.

Sec. 10. Appointments to Departments of City Service—Rules—Removal of Officers—Statement in Writing of Reasons—Political or Religious Belief, Not Cause of Removal.—From and after the taking effect of this article and the adoption of the rules herein provided for, all appointments to positions and employments in the several departments of the city service shall, unless in this Charter otherwise provided be made by the respective heads of such departments under and in conformity with the provisions of such rules, and such heads of departments shall respectively have power to remove or discharge any person holding any office, position, or employment in their respective departments whenever, in their opinion, the good of the public service requires the exercise of such power. It shall be the duty of a discharging officer, upon request of a discharged person, at any time after discharge, to give such person a correct statement in writing of the reasons for his discharge. No person in the city's service shall be removed, reduced in grade or salary, or transferred because of political or religious beliefs or opinions of such persons; nor shall any person in the competitive class of the city service be removed, reduced in grade or salary or transferred without first having received a written statement setting forth in detail the reasons therefor; and at the option of the person who shall have been removed, reduced, or transferred, a copy of such statement shall be filed in the office of the Civil Service Commissioners, together with reply, if any made thereto, by the person removed, and the whole shall be filed and preserved in the office of said commissioners and be open to public inspection. In case of discharge of any person owing to the reduction of force, the discharged person shall receive a certificate so stating, and shall be placed on the eligible list with the same rank he had already attained, and shall have a preference over those on the eligible list, and those who have served the longest before being so discharged shall be first restored.

Abuse of Power to Remove.—Whenever said commissioners shall have reason to believe that any officer, board, head of department or person having power to discharge.

has abused such power by making dismissals or discharges for political or other reasons than solely for the good of the public service, it shall be their duty to make such investigation in the premises as they may deem advisable and if they shall find that any such violation of the provisions of the intent and spirit of this article has occurred, they shall make report thereof to the Mayor and the officer or tribunal having power under this Charter to remove such officer, board, head of department, or persons, and such report shall be sufficient cause for removal of such guilty officer, board, head of department, or person.

Sec. 11. Applicants for Offices and Positions to Be Examined—Subject to Exceptions—Public and Competitive Examination—To Be Practical.—All applicants for offices or positions in the classified service, subject to the exceptions expressly made in this Charter, shall be subjected to examination, which shall be public, competitive and free to all citizens of the United States, with specified limitations as to residence, age, health, habits and moral character. Such examinations shall be practical in their character, and shall relate to those matters which will fairly test the relative capacity of the person examined to discharge the duties of the positions to which they seek to be appointed, and shall include tests of physical qualifications and health, and when appropriate, of manual skill.

Not to Relate to Political or Religious Affiliations—Commission to Control.—No questions in any examination shall relate to political or religious opinions or affiliations. The commission shall control all examinations and may, whenever an examination is to take place, designate a suitable number of persons, either in or not in the official service of the city, to be examiners, and it shall be the duty of such examiners, and if in the official service of the city, it shall be part of their official duty, without extra compensation, to render such service in connection with such examination as the commission may require, and to make report or return thereof to said commission, and the commission may, at any time, substitute any other person, whether or not in such service, in place of any one so selected, and the board may themselves at any time act as such examiners, and without appointing examiners. The commission shall fix the compensation of such examiners, and may appoint such other employes of the board as they deem necessary, and fix their pay.

Sec. 12. Intending Competitors to File Applications—Form of—Commissioners May Refuse to Examine, When.—Intending competitors shall be required to file in the office of the commissioners a reasonable length of time before the date of any examination, a formal application in which the applicant shall state, under oath, first, his full name, residence and postoffice address; second, his age, date and place of birth; third, health and physical capacity for public service; fourth, his business or employment and residence for at least five years previous; fifth, such other information as may be reasonably required touching the applicant's merit and fitness for the public service. Blank forms for such application shall be furnished by the Civil Service Commissioners without charge to all persons requesting the same. Such commissioners may require in connection with such application such certificates of citizens, physicians, public officers or others having knowledge of the applicant as the good of the service may require. Such commissioners may refuse to examine an applicant, or, after examination, to certify as eligible one who is found to lack any of the essential preliminary requirements for the examinations for positions for which he applies; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position to which he seeks appointment; or who is addicted to the habitual use of intoxicating beverages to excess; or who has been convicted of a crime or guilty of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has intentionally made a false statement of any material fact, or practiced, or attempted to practice, any deception or fraud in his application, in his examination, or in securing his eligibility or appointment.

Sec. 13. Notice of Time and Place of Examinations—Applications Filed, When.—Notice of the time and place and general scope of every competitive examination provided for in this article shall be given by the board by publication, for at least five days preceding such examination, in the newspaper doing the city printing, and such notice shall also be posted in a conspicuous place in their office for two weeks before such examination. The board may advertise non-competitive examinations provided for in this article in such manner as the nature of such examinations may, in their opinion, require. Applications for appointment may be filed at any time, and when so filed personal notice of the time, and place of examinations must be sent by mail to the applicant.

Sec. 14. Eligible List Prepared From Report of Examiners.—From the returns or reports of the examiners, or from the examinations made by the commission, the commission shall prepare an eligible list of each grade or class of positions in the competitive class of the classified service of the city, of the persons whose general average standing upon examination for such grade or class is not less than the minimum fixed by the rules of such commission, and who are otherwise eligible, and shall furnish to each of such persons a certificate setting forth the general average standing secured by him under such examination, and such person shall take rank upon the eligible list as candidates in the order of their relative excellence as determined by examination without reference to priority of time of examination.

Sec. 15. Rules For Promotions.—The board shall, by its rules, provide for promotion in such competitive class of the classified service on the basis of ascertained merit, and shall provide in all cases where it is practicable that vacancies therein shall be filled by promotion, and in said rules shall provide for transfers and re-instate-ments.

Sec. 16. Commission Shall Certify to Appointing Officer, the Name and Address of Candidate Standing Highest—Names Stricken Off, When.—The head of a department or office in which a position in the classified service is to be filled shall notify said board of the fact, and said commission shall certify to the appointing officer the name and address of the candidate standing highest upon the eligible list for the class or grade to which said position belongs, except that where a choice by competition is not required by this article, said commission may, subject to the provisions of this article, provide by its rules how selections shall be made among those candidates proved fit by examination. In making such certification, sex shall be disregarded, except when some statute, the rules of the commission or the appointing power specify sex. The appointing officer shall notify said commission of each position to be filled separately, and shall fill such place by the appointment of the person certified to him by said commission therefor. Said commission shall strike off names of candidates from the eligible list after they have remained thereon more than two years. In the event of more than one applicant receiving the same mark at any examination, all such applicants shall cast lots to determine the order in which their names shall be placed on the eligible list.

Sec. 17. Notice to Board of Appointments, Transfers, Promotions and Vacancies.—Immediate notice in writing shall be given by the appointing power to said board of all appointments, permanent and temporary, made in such classified service, and all transfers, promotions, resignations or vacancies, from any cause, in such service, and of the date thereof, and a record of the same shall be kept by said board. When any office or position is created or abolished or the compensation attached thereto altered, the City Clerk shall immediately report the fact in writing to said board.

Sec. 18. Incumbents of Positions at the Time This Charter Takes Effect.—The incumbents of all positions at the time this Charter takes effect, coming within the competitive class of the classified service, may continue in service and discharge the duties assigned them until the beginning of the fiscal year 1910, and until the board secures an eligible list and promulgates rules as provided in Section 3 of this article, whereupon said incumbents shall be deemed to have vacated their several positions. Until such time appointments and removals shall be made and vacancies filled as elsewhere provided in this Charter.

Sec. 19. Chief Examiner—Duties of—Ex Officio Secretary of Board.—The board shall appoint a chief examiner who shall, under their direction, superintend any examination held under this article, and who shall perform such other duties as the board may prescribe. The chief examiner shall be secretary of the board by virtue of his office. He shall keep the minutes of its proceedings, preserve all reports made to it, and keep a record of all examinations held under its direction.

Sec. 20. No Person to Be Obstructed in Mark or Grade, Corruptly.—No person or officer shall wilfully or corruptly, by himself, or in co-operation with one or more other persons, directly or indirectly, defeat, deceive or obstruct any person in mark, grade, estimate or report upon the examination, or proper standing of any person examined hereunder, or aid in so doing, or wilfully or corruptly make a false representation concerning the same, or concerning the person examined, or wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined or to be examined, of being appointed, employed or promoted.

Sec. 21. Officer or Employee Not to Receive Contribution For Political Purposes.—No officer or employee within the competitive class of the classified service of the city shall solicit orally or by letter, or otherwise, or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political party or for any political purpose whatever.

Sec. 22. No Person to Solicit From City Employee for Political Purposes.—No person shall solicit, orally, or by letter, or otherwise, or be in any manner concerned in soliciting any assessment, contribution or payment for any political party or for any political purpose whatever from any officer or employee in the classified service of the city.

Sec. 23. Soliciting or Receiving Contributions For Political Purposes in Building Occupied For Official Duties, Prohibited.—No person shall, in any room or building occupied for the discharge of official duties by any officer or employee of the city, solicit orally or by letter or written communication delivered therein, or in any manner, or receive any contribution of money or other thing of value for any political party or for any political purpose whatever. No officer, agent, or employee, under the government of the city, who may have charge or control of any building, office or room occupied for any purpose of said government, shall permit any person to enter the same for the purpose of therein soliciting or delivering written solicitations for or receiving or giving notice of any political assessment.

Sec. 24. Giving Money by One Employee to Another for Political Purposes Prohibited.—No officer or employee in the service of the city shall directly or indirectly give or hand over to any officer or employee in the service of said city any money or other valuable thing on account of or to be applied to the promotion of any political party or any political purpose whatever.

Sec. 25. Employee Not to Promise or Threaten for Giving or Withholding Contributions For Political Purposes.—No officer or employee of the city shall discharge or degrade or promote, or in any manner change the official rank or compensation of any other officer or employee, or promise or threaten to do so for giving or withholding, or neglecting to make any contribution of money or

other valuable thing for any political party or purpose, or for refusal or neglect to render any political service.

Sec. 26. Appointment or Promotion—Payment for, Prohibited.—No applicant for appointment in said Civil Service shall, either directly or indirectly, pay or promise to pay any money or other valuable thing to any person whatever for or on account of his appointment, and no officer or employe shall pay or promise to pay, either directly or indirectly, to any person, any money or other valuable thing whatever for or on account of his promotion or retention in the public service of the city.

Sec. 27. Appointment or Promotion—Consideration of Political Services, Prohibited.—No applicant for appointment or promotion in said Civil Service shall ask for or receive any recommendation or assistance from any officer or employe in said service, or from any person, upon the consideration of any political service to be rendered, or the promotion of any person to any office or appointment.

Sec. 28. Person Holding Office or Nomination, Not to Offer Corrupt Consideration For Vote.—No person while holding an office in the government of the city, or a nomination for, or while seeking a nomination for or appointment to any such office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence (whether then possessed or merely anticipated), in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public appointment, or any nomination, promotion or increase of salary, upon the consideration or condition that the vote, or influence or action of the last named person or any other shall be given or used in behalf of any candidate, officer, person, or political party, or upon any corrupt condition or consideration.

Sec. 29. Board Shall Certify to Comptroller Appointments and Vacancies.—The board shall certify to the City Comptroller all appointments to offices and places in the competitive class of the classified service and all vacancies occurring therein.

Sec. 30. City Comptroller—To Draw Warrants For Salaries, How—Person Entitled to Be Certified to Comptroller—Certificate Refused, May Proceed by Mandamus.—It shall be unlawful for the City Comptroller or other fiscal officer of the city, when Civil Service rules have been prescribed, pursuant to this article, to draw, sign, or issue or authorize the drawing or issuing of any warrant on the Treasurer or other disbursing officer of the city to pay any salary or compensation to any officer, clerk or person in the competitive class of the classified service of the city unless his name shall have been certified to the Comptroller as provided for in the preceding section of this article. Any officer, clerk or other person entitled to be certified by said board to the Comptroller, Treasurer or other fiscal or disbursing officer of the city, as having been appointed or employed in pursuance of this article, and of the rules made in pursuance of it, and refused such certificate, may maintain a proceeding by mandamus in the Supreme Court of the State, or in the Circuit Court of Jackson County, Missouri, at Kansas City, to compel said board to issue such certificate. Mandamus proceedings as herein specified must be brought within thirty days after refusal of such certificate. Jurisdiction is hereby conferred upon the Circuit Court of Jackson County, Missouri, at Kansas City, and on any judge thereof, in vacation, on application of any tax-payer of said city, to restrain and enjoin the payment of any compensation for services rendered said city by any person by virtue of occupying any office or position coming within the competitive class of the classified service of the city who occupies such office or position under any appointment made in contravention of any provision of this article. The process above provided shall not be so construed as to limit or restrict the jurisdiction or power of said court to accord other adequate civil remedy necessary to effectuate the provisions of this article.

Sec. 31. Violations of Provisions of This Article, Misdemeanor—Penalty—City Counselor to Appear in Court—Procedure.—Any person who shall wilfully, or through culpable negligence, violate any of the provisions of this article, shall be guilty of a misdemeanor, and shall upon conviction thereof in the Criminal Court of Jackson County, Missouri, at Kansas City, be punished by a fine of not less than fifty dollars and not exceeding five hundred dollars, or by imprisonment in the city workhouse for a term not exceeding six months or by both such fine and imprisonment, and the said Criminal Court is hereby vested with jurisdiction of violations of

this article, in so far as enforcing fines and penalties is concerned And it is hereby made the duty of the City Counselor to appear in said court on behalf of the city, and to prepare all informations for violations of this article, which shall be verified by the prosecuting witness or the City Counselor, and shall be prosecuted in the name of the city. Upon the filing of such verified information by said City Counselor specifying the acts or omissions of the accused constituting the alleged offense, in term time in said court, or with the clerk thereof in vacation a warrant shall issue for the apprehension of the person charged with the offense as provided by Section 2484 of the Revised Statutes of Missouri of 1899, and the trial and all proceedings shall be in accordance with the State law of Missouri applicable to proceedings upon information filed in a court of record, except that the City Counselor shall institute and conduct the same in the name of the city, as herein provided. The Prosecuting Attorney of Jackson County may also file information and conduct prosecutions in the name of the city in said court for violations of the provisions of this article.

Sec. 32. Ordinances Touching Civil Service.—The Common Council shall have the power to pass all ordinances touching the Civil Service, the passage of which shall have been recommended by the commission in writing duly certified thereon, provided the same are in no wise inconsistent or in conflict with any provision of this article.

Sec. 33. This Article to Govern Police Department, How Far.—The provisions of this article shall extend to and govern the police department of the city whenever and so far as the State laws shall authorize or permit. Should the State enact a Civil Service law governing the police department of this city, this commission is authorized to administer said law, should the State so provide.

ARTICLE XVI.

FRANCHISES.

Section.

1. City's Title to Its Property, Inalienable—Exceptions.
2. Power of City to Grant Franchises—Not to Grant Exclusive Franchise.
3. Franchises Granted—Expiration—Not Longer Than Thirty Years—Unless Ratified by Qualified Voters—Ratification—Expense of Election.
4. Street Railways—Control and Construction of—Right of Way—Consent of Property Owners—Regulation as to.
5. Franchises — Regulation and Control of—Owners Not to Charge More for Service Than Rates Fixed by Ordinance—Owners Aggrieved, May Have

Section.

- Same Determined by Court—Proceedings.
6. Commission to Investigate Establishment of Rates.
7. Uniform Gauge for Street Railways.
8. Forfeiture of Certain Franchises for Street Railways.
9. Control by the City, Construed.
10. Ordinance Creating or Affecting Franchise Becomes Effective, When—Petition to Submit to Qualified Voters—Signed by How Many—Qualifications of Voters—Petition to be Certified—How Submitted—If Special Election Called for by Person or Corporation, Costs and Expenses — Person Signing Name Other Than His Own, Penalty.

Section 1. City's Title to Its Property, Inalienable—Exceptions.—The title of the city to and in its water front, wharf property, land under water, public landings, wharves, docks, highways, avenues, boulevards, streets, lanes, alleys, parks, public grounds and public places is hereby declared to be inalienable; *Provided*, That nothing herein contained shall prevent the city from vacating any street or highway or part thereof in the manner provided for in this Charter, nor from disposing of any building or parcel of land which the city may lawfully sell, no longer needed for public use, provided such disposition shall be made on open and public competition and pursuant to ordinance passed by at least two-thirds affirmative vote of all the members elect of each house of the Common Council,

See Art. IX.
Cummings Realty & Inv. Co. vs

Deere & Co., 208 Mo. 6; St. Louis vs
Term. Ry. Assn., 211 Mo. 364.

Sec. 2. Power of City to Grant Franchises—Not to Grant Exclusive Franchise.—The city may grant for a limited time, and

subject to the limitations and conditions contained in this Charter, specific franchises, privileges, or rights in or relating to any of the public property or places mentioned in the preceding section, but the city shall have no power to grant any exclusive franchise, privilege or right for any purpose whatsoever; and, *Provided*, That no such franchise, privilege or right shall be granted by both houses of the Common Council at the same meeting at which the ordinance providing therefor is introduced.

Unauthorized use of street is a nuisance. (St. L. & Mer. Ry. vs Kirkwood, 159 Mo. 239, 255; see also Heer D. G. Co. vs Citizens' Ry., 41 Mo. App. 63.) And may be enjoined. (State ex rel. vs Road Co., 207 Mo. 54; State ex rel. vs Road Co., 116 Mo. App., 175.)

City, under its charter, has full power, unless restrained by statute, to authorize use of its streets for public utility and to fix terms upon which consent is given.

"Julian Law," requiring franchises to be sold to highest bidder, held to be void for uncertainty. (State ex inf. vs West Side Street Ry. Co., 146 Mo. 155.)

If the city gives right to use of streets or public grounds it simply regulates the use when it prescribes the terms and conditions upon which they shall be used. (Sluder vs Transit Co., 189 Mo. 107, l. c. 130, citing St. Louis vs Telegraph Co., 149 U. S., l. c. 469; Kansas City vs Railroad, 187 Mo. 146.)

City may charge reasonable sum for use of its streets without regard to Julian Law. (City of Plattsburg vs Telephone Co., 88 Mo. App. 306; City of California vs Telephone Co., 112 Mo. App. 722.)

City cannot grant exclusive franchise. (Town of Kirkwood vs Mera-mec Highlands Co., 94 Mo. App. 637), and it is immaterial to one paying for non-exclusive franchise that other persons may enjoy like franchise without charge. (City of California vs Telephone Co., 112 Mo. App. 722.)

A franchise is an executed contract on the part of the state, the consideration for which is the benefit which the public will derive from its use and exercise. (State ex rel. vs Railroad Co., 140 Mo. 539, l. c. 549, and cases cited.)

City has not power to abrogate contract at pleasure nor to destroy rights given by it. (Springfield Ry. Co. vs City of Springfield, 85 Mo. 674; State ex rel. vs Corrigan Ry. Co., 85 Mo. 263; City of Detroit vs Detroit Ry. Co., 184 U. S. 368; Cleveland vs Electric Co., 201 U. S. 529.)

New provisions of the Charter do not affect authorized provisions in franchises existing prior to the time that the Charter was adopted. (State ex rel. vs Corrigan Street Ry., 85 Mo. 263, l. c. 282-283), but when extensions of the franchise are given, the then existing charter applies. (St. Louis vs Missouri Ry., 13 Mo. App. 524; St. Louis vs Ry., 87 Mo. 151; Union Depot Ry. vs Southern Ry., 105 Mo. 562, l. c. 570.)

Nothing passes in a grant of privileges, as against the public and in favor of the company or corporation, except such as is clearly expressed or necessarily implied; the grants are to be strictly construed. (St. Louis vs Gas Light Co., 5 Mo. App. 484; St. Louis vs Railway Co., 13 Mo. App. 524, l. c. 530; City of Springfield vs Smith, 138 Mo. 645; Blair vs Chicago, 201 U. S. 400, l. c. 463, 467, 471-473; Home Telephone Co. vs City of Los Angeles, 211 U. S. 265.)

Right under franchise to construct improvement gives right to purchase similar improvement previously constructed. (State ex rel. vs Gravel Road Co., 37 Mo. App. 496.)

While franchises are derived directly by ordinance from the city it is by virtue of the delegated power of the state that the city acts, so that the power conferred on the company is derived from the state, acting through the city as its agent. (State ex rel. vs Ry., 140 Mo. 539, l. c. 550.)

They are derived from a grant of the sovereign power, and state may

give city such measure of right and control as it sees fit. (*Blair vs Chicago*, 201 U. S. 400, 1. c. 457.)

And contract ultra vires of city does not vest franchise right. As corporations are strictly limited to powers given and cannot exceed them so they cannot surrender powers which they have. (*St. Louis vs Gaslight Co.*, 5 Mo. App. 484, 1. c. 530; *State ex rel. vs Corrigan Ry. Co.*, 85 Mo. 263; *Westport vs Mulholland*, 159 Mo. 86; *City of Carthage vs Garner*, 209 Mo. 688; *State vs R. R.*, 75 Mo. 208.)

Regulation of charges is governmental power. City has no authority to abandon governmental power unless expressly authorized by statute. "Power to fix and determine charges" does not authorize contract abandoning power of regulation, hence city cannot irrevocably establish rates for entire period of franchise. (*Home Telephone Co. vs City of Los Angeles*, 211 U. S. 265.)

Language of enabling act, laws 1907, p. 119, R. S. 1909, Section 9568, is: "To fix, by ordinance, the rates and charges for the services of public utilities."

The fact that franchises are vested rights and in a sense contractual in their nature is not a barrier to a forfeiture. (*State ex rel. vs Railroad Co.*, 140 Mo. 539, 1. c. 550.)

Franchises may be forfeited by action in nature of quo warranto by the state at relation of city even though by terms of franchise city is given right to maintain action in its own name. Right of state to maintain action for forfeiture cannot be contracted away or abridged by city. (*State ex rel. vs Railroad Co.*, 140 Mo. 539, 1. c. 550.)

Franchise, how forfeited for breach of condition. (*Hovelman vs Kansas City Horse Railroad*, 79 Mo. 632; *Railroad vs St. Louis*, 66 Mo. 228, s. c. 3 Mo. App. 315; *State ex rel. vs Gravel Road Co.*, 187 Mo. 439, overruling *State ex rel. vs Gravel Road Co.*, 37 Mo. App. 496.)

Franchise designed for city at large operates throughout its boundaries when extended. (*St. Louis Gaslight Co. vs St. Louis*, 46 Mo. 121; *Railroad vs Houck*, 120 Mo. App. 634, 1. c. 646, and cases cited. *Westport vs Mulholland*, 159 Mo. 86 1. c. 97.)

Franchise to a corporation, its successors and assigns, enduring for longer period than company's corporate existence, is valid and may be assigned. (*State ex rel. vs Laclede Gaslight Co.*, 102 Mo. 472; *Detroit vs Detroit Ry. Co.*, 184 U. S. 368.)

Franchise for corporate life of corporation expires with corporation.

A corporation whose charter has expired is incapable of conveying its franchise property. (*State ex rel. vs Road Co.*, 207 Mo. 54.)

Selling, mortgaging and leasing franchises. (*Hovelman vs Railroad*, 79 Mo. 632; *State Constitution*, Art. XII, Sec. 20. *State ex rel. vs Railway*, 140 Mo. 539; *State ex rel. vs Laclede Gas Light Co.*, 102 Mo. 472, 1. c. 482; *Kavanaugh vs St. Louis*, 220 Mo. 496.)

Liability of lessor in case of lease of franchise rights. (*Moorshead vs United Railways Co.*, 203 Mo. 121; *Gilroy vs United Rys. Co.*, 125 Mo. App. 19; *Bensiek vs Transit Co.*, 125 Mo. App. 121.)

Sec. 3. Franchises Granted—Expiration—Not Longer Than Thirty Years—Unless Ratified by Qualified Voters—Ratification—Expense of Election—All franchises hereafter granted or extended by the city shall have a time fixed therein for the expiration of such grant or extension; and if no time be fixed therein for their expiration or extension, then such franchises shall expire twenty years after the ordinance granting or extending the same takes effect. No franchise for any purpose whatever shall be granted or extended by the city for a longer period of time than thirty years unless the ordinance granting or extending such franchise shall be submitted to the

qualified voters of said city, and ratified by a majority vote of said qualified voters voting at an election to be held for that purpose, and no such franchise shall be valid unless so ratified. Any ordinance, however, granting or extending a franchise for a term of thirty years, or for a term less than thirty years, may provide that the same shall not take effect or be valid unless ratified as above provided, and in every such case the ordinance shall not take effect or be of any validity until submitted to the qualified voters of said city, and ratified by a majority of said qualified voters voting at an election to be held for that purpose. The expense of any special election called for a vote on such ordinance shall be paid by the grantee or grantees named in the franchise ordinance so submitted.

Sec. 4. Street Railways—Control and Construction of.—The city may, by ordinance, direct and control the laying and construction of surface, elevated and underground railroads of any kind on, over or under the streets, avenues, highways and alleys of the city, and may require any such railroads, and all parts thereof to be constructed, laid and kept in repair so as to interfere as little as possible with ordinary travel and use of streets, avenues, highways and alleys, and may require the space between the rails and columns, and not less than eighteen inches on the outside thereof, and the space between all tracks and columns to be macadamized, paved, repaved, blocked, reblocked or improved, as the roadway beyond such limits may be macadamized, paved, repaved, blocked, reblocked or improved, and kept in repair by the person, persons or corporation owning or operating the same; this section shall apply to all such railroads heretofore constructed, and those hereafter to be constructed.

Right-of-Way—Consent of Property Owners—Regulation as to.—The city shall not grant the right-of-way on or over any street in said city to any person, persons or corporation for the construction of any railroad without the consent of the property owners owning a majority in front feet of the property fronting on each street between the points where such railroad is proposed to be constructed; nor shall any railroad be hereafter constructed or laid down without such consent; and the city shall have power, by ordinance, to fix and regulate, from time to time, the hours and frequency of trips of street railroads, the fare to be charged for passage on any such railroad, and to require any such railroad, or any part thereof, to be lighted and guarded, and to designate the kind of rails and vehicles to be used, and shall have power to require the performance of any other condi-

tion, and the making of any other improvement that the Common Council may deem for the best interests of the city.

See Art. III, Sec. 1, Cl. 12 and note.

"No law shall be passed by the general assembly granting the right to construct and operate a street railroad within any city, town, village, or on any public highway without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad; and the franchise so granted shall not be transferred without similar assent first obtained." (Constitution of Missouri, Article XII, Sec. 20.)

What are street railroads. Distinction between railroads and street railroads. (Sams vs St. Louis & M. R. Ry. Co., 174 Mo. 53.)

Power which state primarily had over streets and highways has been transferred to city and General Assembly has no power to authorize construction, operation or transfer of street railway without consent of city. (State ex inf. vs Lindell Ry. Co., 151 Mo. 162, l. c. 183; Grand Avenue Ry. Co. vs Lindell Ry. Co., 148 Mo. 637.)

This power is not limited to mere yes or no, but cities may impose such conditions upon their consent as they see fit. (St. Louis & M. R. Ry. Co. vs City of Kirkwood, 159 Mo. 239, l. c. 252, and cases there cited.)

But the General Assembly has placed certain limitations upon all cities in granting franchises to street railway companies, (Rev. Stat. 1899, Secs. 6116 to 6119; Rev. Stat. 1909, Secs. 9494 to 9497), requiring designation of route, depots, assessment of damages, petition of majority of property owners along the route, etc.

Interpretations as to damages to property owners. (Nagel vs Lindell Ry., 167 Mo. 89; Ruckert vs Grand Ave. Ry., 163 Mo. 260; De Geofroy vs Bridge & Terminal Co., 179 Mo. 698.)

Regulation must be in harmony with constitution and general laws of state. (State ex inf. vs Lindell Ry. Co., 151 Mo. 162; Grand Ave. Ry. Co. vs Lindell Ry. Co., 148 Mo. 637.)

For right of city to direct and control the laying and construction of steam railroads, see note to Art. III, Sec. 1, Cl. 12.

For distinction between use that may be made of streets by street railroads and steam railroads and cases relating particularly to street railways see Placke vs U. D. Ry. Co., 140 Mo. 634; Morie vs Transit Co. 116 Mo. App. 12, l. c. 25; Nagel vs Lindell Ry. Co., 167 Mo. 89, l. c. 97; Ruckert vs Grand Ave. Ry. Co., 163 Mo. 260; West Chicago Ry. Co. vs Chicago, 201 U. S. 506.

Street railroads must conform to grade of street. (Farrar vs Midland Electric Ry. Co., 101 Mo. App. 140; Donner vs Metropolitan Street Ry. Co., 133 Mo. App. 527.)

Provision requiring street railway company to keep and maintain space between its rails and two feet on either side of its track and all street crossings in good repair does not impose on company obligation to reconstruct street. An obligation to repair is not obligation to construct new pavement. Effect of ordinance subsequent to grant of franchise. (State ex rel. vs Corrigan Street Ry. Co., 85 Mo. 263.)

Under such provision city cannot compel company to pave with specified materials. (City of Kansas vs Corrigan, 86 Mo. 67.)

Duty of company to pave is coextensive with franchise and removal of tracks terminates obligation. (Brick & Terra Cotta Co. vs Hull, 49 Mo. App. 433.)

Extension of franchise subjects company to burden of paving. (St. Louis vs Missouri Ry. Co., 13 Mo. App. 524; St. Louis vs Ry. Co., 87 Mo. 151.)

Payment of taxes of any description does not relieve company from burden to pave. (St. Louis vs Ry. Co., 87 Mo. 151.)

City may forfeit franchise for failure to comply with paving requirements. (City of Springfield vs Roberson Avenue Ry. Co., 69 Mo. App. 514; State ex rel. vs Canty, 207 Mo. 439, l. c. 458.)

Levying special assessments against abutting property owner for paving street including part between street car tracks. (Farrar vs St. Louis, 80 Mo. 379.) Omitting space between

street car tracks. (City of Springfield to use vs Weaver, 137 Mo. 650.)

Railroad rights of way are subject to an assessment for local street improvements. (Heman Construction Co. vs Wabash Ry. Co., 206 Mo. 172; Corrigan vs Kansas City, 211 Mo. 608;

City of Nevada to use vs Eddy, 123 Mo. 546; Bank vs Haywood, 62 Mo. App. 550; 147 U. S. 190; 186 U. S. 539.)

Power to regulate operation of trains see Art. III, Sec. 1, Cl. 27, and note.

Sec. 5. Franchises—Regulation and Control of.—It shall be lawful for the city to regulate and control the exercise by any person or corporation of any public franchise or privilege in any of the streets or public places of the city, whether such franchise or privilege has been or may be granted by the city or by or under the State of Missouri, or any other authority.

Owners Not to Charge More for Service Than Rates Fixed by Ordinance—Owners Aggrieved, May Have Same Determined by Court—Proceedings.—All persons, firms and corporations owning or operating telephone or telegraph lines, systems or exchanges or street railway lines and systems or a tunnel or subway, conduit or viaduct, or engaged in furnishing gas, steam or electricity for lighting, heating or power, or engaged in furnishing light, heat or refrigeration under any franchise granted by the State of Missouri or the City of Kansas City, and all persons, firms and corporations owning or operating any other public utility under any franchise granted by the State of Missouri or the City of Kansas City are hereby required to charge no more for the service of such utility than such rates as shall be fixed, from time to time, by ordinance of the city. The city shall have power and authority to fix, by ordinance, the rates charged for the service of such utility within its corporate limits and to provide and enforce fines and penalties for the violation thereof, and to change such rates, by ordinance, from time to time, as often as may be deemed necessary; *Provided, however,* That such rates must be reasonable and shall not be changed oftener than once every two years. Any such person, firm or corporation owning or operating any of the utilities mentioned in this Charter, and claiming to be aggrieved by the rates fixed by any ordinance of the city, shall have the remedies herein provided to have the validity of such ordinance, and the reasonableness of such rates, determined by the Circuit Court of the County of Jackson at Kansas City. The party so complaining shall, as plaintiff, file in the Circuit Court within twenty days after the passage of such ordinance a petition against such city as defendant, setting forth the objections to such ordinance, whereupon summons shall issue and be served upon such

city and proceedings had as in other cases. The plaintiff or defendant shall have the right of appeal to the proper appellate court of the State as in other cases. Said cause shall be speedily heard and determined, and shall have precedence in time in the Circuit and Appellate Courts over other civil actions. Nothing contained in this section shall be construed to mean that any power or jurisdiction is conferred upon said courts to fix such rates or regulate the charges of any such public utility.

Regulation of Rates and Charges.—In *State ex rel. vs Telephone Co.*, 189 Mo. 83, the Supreme Court held that Kansas City did not have right to regulate telephone charges under provisions of constitution or enabling act of 1887, but held further that legislature could confer that power upon city. General Assembly conferred the power to regulate rates charged by public utilities in 1907. (Laws 1907, p. 119; Rev Stat. 1909, Secs. 9568, 9569, 9570.)

Rates must be uniform and apply alike to all customers of same class

and are subject to review by courts. (*Vanderberg vs Gas Co.*, 126 Mo. App. 600.)

City cannot surrender power to regulate charges. (*St. Louis vs Gas Light Co.*, 5 Mo. App. 484, l. c. 530; *State ex rel. vs Corrigan*, 85 Mo. 263; *Westport vs Mulholland*, 159 Mo. 86; *City of Carthage vs Garner*, 209 Mo. 688; *State vs Railroad*, 75 Mo. 208; *Home Telephone Co. vs City of Los Angeles*, 211 U. S. 265. See note to Section 2 this article.)

See Art. III, Sec. 1, Cl. 28.

Sec. 6. Commission to Investigate Establishment of Rates.

—The city may, by ordinance, provide for and establish a committee or commission to make investigation into all facts and matters touching the establishment of such just and reasonable rate or rates charged, and the character of the service furnished, and such other matters as the Common Council may designate by ordinance, and after such investigation said commission shall report its findings and recommendations to the City Council. The city shall have power and authority, by ordinance, to require and enforce the production of books and papers and compel the attendance of witnesses before the Common Council or any duly established committee or commission for the purpose of ascertaining the facts under investigation.

Sec. 7. Uniform Gauge For Street Railways.—A uniform gauge shall be established by ordinance for all street railroads in Kansas City.

Sec. 8. Forfeiture of Certain Franchises For Street Railways.—All franchises and privileges heretofore granted by the city which are not in actual use and enjoyment, which the grantees thereof have not in good faith commenced to exercise within the time fixed for so doing by the ordinance granting the right, or by any ordi-

nance extending said time, are hereby declared forfeited and of no validity unless said grantees or theri assigns shall, within six months after this charter takes effect, in good faith commence the exercise and enjoyment of such privilege or franchise.

See note to Section 2 this article.

Sec. 9. Control by the City, Construed.—All rights and regulations and control which this Charter gives to the city shall be construed as continuing rights and the city shall not be held to have exhausted the right by one exercise thereof, either in the original ordinance by which any franchise may be granted, or by any subsequent ordinance.

See note to Section 2 this article.

Sec. 10. Ordinance Creating or Affecting Franchise Becomes Effective When—Petition to Submit to Qualified Voters—Signed by How Many—Qualifications of Voters—Petition to Be Certified—How Submitted—If Special Election Called for By Person or Corporation, Costs and Expenses.—No ordinance creating, granting, extending, amending or altering any franchise, right or privilege to any person or corporation to make use, in whole or in part, of any street or streets, alley or alleys, or other public ground or grounds, whether on, under or above the surface thereof, shall become final and effective until sixty days after the enactment thereof and if within such sixty days after the enactment thereof a petition or petitions requesting that such ordinance shall be submitted to a vote of the qualified voters of said city, signed by voters of said city, who were qualified to vote at the last preceding general city election and aggregating in number not less than twenty per cent of the number of votes cast at the last preceding general city election for all candidates for Mayor, shall be filed in the office of the City Clerk, to which petition must be attached a certificate of a notary public of Jackson County, Missouri, stating that the notary has good reason to believe, and does believe, that the signatures thereto are the genuine signatures of qualified voters of said city, which certificate shall constitute *prima facie* evidence of the genuineness and authenticity of such signatures, the Mayor and Common Council shall cause such ordinance to be submitted to the qualified voters of said city at a general or special election, and unless a majority of the votes cast for and against such ordinance at such election shall be in favor of the adoption thereof, such ordinance shall

be null and void. Such petition shall be canvassed by the City Clerk, City Comptroller and City Counselor, who shall determine whether such petition contains the necessary signatures required as above. Their finding shall be conclusive for all purposes, and they shall make certification of such finding to the Mayor, and a copy of such certificate shall be recorded in the office of the City Clerk and preserved among the archives of the city. Such election shall be called, held and conducted as may be prescribed by ordinance, and the certificate of the officer or officers at such time legally required to make such certificate as to the result of the election shall be final and conclusive. Such franchise ordinance shall not, in any event, be final and effective after the filing of such petition until approved by a majority vote at such election. If a special election be called for a vote on such ordinance, the person or corporation in whose favor such ordinance shall be enacted shall pay all costs and expenses of such election, and shall give bond with security satisfactory to the Mayor for the payment of such costs and expenses before the calling of such election.

Person Signing Name Other Than His Own, Penalty.—

If any person shall sign the petition above provided for with a name other than his own, or shall procure or attempt to procure any other person to do so, or shall procure or attempt to procure any signature to said petition by false or fraudulent statements he shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars and by imprisonment for not longer than twelve months.

ARTICLE XVII.

DRAMSHOPS.

Section.

1. **Dramshops—Application for License—Indorsement of Police Commissioners—Notice of Application.**

Section.

2. **Revocation of License—Notice to Dramshop Keeper—Hearing.**
3. **Elections—Dramshops to be Closed—Duty of Commissioners.**

Section 1. Dramshops—Application for License—Indorsement of Police Commissioners—Notice of Application.—Before an application for license to keep a saloon, beer house, tippling house or dramshop shall be received or filed by the City Auditor, there shall be endorsed thereon a certificate signed by the Board of Police Commissioners that such applicant has proved himself to be a person of good moral character. Whenever such application is presented to the Board of Police Commissioners, such Board shall cause notice, in writing, to be served by a policeman, upon every resident property owner in the block where such saloon, beer house, tippling house or dramshop is proposed to be located, designating a day not less than five days nor more than ten days after the service of such notice when remonstrances, if any, against the issuance of such license will be heard by such Board. Whenever such application so endorsed, as aforesaid, by said Board of Police Commissioners, shall be presented to the City Auditor, he shall issue a license to such applicant.

Method of licensing dram shops, see Art. III, Sec. 1, Cl. 31.

State regulations, R. S. 1899, Chap. 22, R. S. 1909, Chap. 63.

No one has a natural right to sell intoxicating liquor because the tendency of its use is to deprave public morals and to do so without a license from proper authority is unlawful. A dram shop license is a mere permit and not a contract with licensee which creates vested rights but is subject at all times to police power and may be **revoked**. (*State vs Seebold*, 192 Mo. 720, l. c. 727, and cases there cited; *Barnett vs County Court*, 111 Mo. App.

693.)

But when one complies with all requirements of the dram shop law he bases his right to a license upon a valid and constitutional statute and is entitled to a county license and mandamus will lie. (*State ex rel. vs Turner*, 210 Mo. 77, l. c. 85.)

But before one can legally conduct dram shop in a city he must have both city and county license. (*Sharp vs City of Carthage*, 48 Mo. App. 26; *State vs Harper*, 58 Mo. 530.)

The propriety of the issue of a city dram shop license in any given case is under the charter a matter solely with-

in the discretion of the police board. (Ex Parte Joffee, 46 Mo. App. 360, l. c. 366, cited with approval in Sluder vs Transit Co., 189 Mo. 107, l. c. 194, and State vs Hamey, 168 Mo. 167, l. c. 213; State ex rel. vs Stiff, 104 Mo. App. 685.)

It is no defense to a prosecution for failure to take out license that auditor has refused to issue it. If refusal was wrongful the applicant has remedy by mandamus. (City of Kansas vs Flinders, 71 Mo. 281.)

When the state law says that a license shall be granted on the petition of two-thirds of the inhabitants of a block, the Board of Aldermen have not the authority to say that there shall be a petition of two-thirds of the entire town. Though the city is authorized to regulate a dram shop, it cannot regulate it in those particulars which would be inconsistent with the regulation made by the state. (State ex rel. vs McCammon, 111 Mo. App. 626, l. c. 631.)

The statute of the state governing the sale of liquors and the conduct of dram shops thereunder becomes a part and parcel of the license. (Barnett vs County Court, 111 Mo. App. 693.)

The sale of a single glass of liquor without a license is a violation of the ordinance prohibiting the sale of intoxicating liquors without a license.

(City of Kansas vs Muehlebach, 68 Mo. 638; City of Springfield vs Ford, 40 Mo. App. 586; State vs Small, 31 Mo. 197.)

Kansas City has authority to enact ordinance prohibiting sales of liquors to women. (City of Joplin vs Jacobs, 119 Mo. App. 134.)

May prohibit females, whether proprietors or employes, waiting on customers in saloons. (State vs Canton, 43 Mo. 48; R. S. 1899, Sec. 2185; R. S. 1909, Sec. 4740.)

Druggist and dramshop keeper distinguished. (State vs Willard, 39 Mo. App. 251.)

Keeping saloons open on Sunday. (State vs Binder, 38 Mo., 451; State vs Kessels, 120 Mo. App. 233.)

The sale of liquor to a member by a bona fide social club not incorporated for profit is not a sale within the inhibition of dram shop law. (State ex rel. vs The St. Louis Club, 125 Mo. 308.)

But where the principal business of a club is selling intoxicating liquors to its members it is violation of the dram shop act. (State ex inf. vs Kirkwood Social Athletic Club, 121 Mo. App. 87; State ex inf. vs Rosehill Pastime Athletic Club, 121 Mo. App. 81; State ex inf. vs Rod and Gun Club, 121 Mo. App. 364.)

Sec. 2. Revocation of License—Notice to Dramshop Keeper—Hearing.—Whenever it shall be shown to the Board of Police Commissioners, upon complaint of any person in writing, or whenever said Board shall become satisfied that any dramshop keeper of the city keeps a disorderly house, or a house that is a resort of minors, lewd or disreputable women, or of evil-disposed persons, the said Board of Police Commissioners may order the license of such dramshop keeper to be revoked, and from the date of such order of revocation, such dramshop keeper shall be deemed to have no license, and to be without authority of law to carry on a dramshop; and thereafter no license shall be granted to such person to keep a dramshop. Whenever such complaint in writing shall be made to the Board, or whenever the Board shall become satisfied that any dramshop keeper of the city keeps a disorderly house, or a house that is the resort of minors, lewd or disreputable women, or of evil-disposed persons, such Board

shall order its Secretary to notify such dramshop keeper of the same, and set a day when such dramshop keeper may be heard; and such notice shall be served by a policeman, by a copy thereof delivered to such dramshop keeper or any bar-keeper in charge of said dramshop, and no license shall be revoked by said Board without notice thereof, and an opportunity to be heard, to said dramshop keeper.

Sec. 3. Elections—Dramshops to Be Closed—Duty of Commissioners.—The Board of Police Commissioners shall, on the day next preceding any general or special election held in Kansas City, issue an order for the closing of all saloons, beer houses, tippling houses and dramshops on such election day, and give public notice of the issuance thereof. Said Board shall direct the Chief of Police to take the necessary steps to insure the strict enforcement of such order.

ARTICLE XVIII.

MISCELLANEOUS PROVISIONS.

Section.

1. Existing Ordinances—To Continue in Force.
2. Measures and Proceedings Pending—Remain Unaffected.
3. Public Improvements Commenced Prior to Taking Effect of This Charter—Proceedings Continued.
4. Existing Rights of Action, Etc.
5. Ordinances—Proof of.
6. Existing Recognizances, Taxes, Etc., Due to City, to Continue Unaffected.
7. Existing Judicial Proceedings, Condemnation Proceedings and Contracts, to Remain Unaffected.
8. Appeals by City—Bond Without Security—Inhabitants May be Jurors or Witnesses.
9. Existing Officers—Hold Over Until Successors Qualified—City Attorney.
10. Existing Lien for Taxes Continued in City—What Property Forfeited to City—Right to Redemption Not Affected by This Charter.
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14. City Improvements Let by Contract to Lowest Bidder—Repairs, by Day's Work.
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18. Officers—Filling Office Temporarily.
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Section.

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33. "Charity Day" Named.
34. Amendment of Charter—Proceedings for.
35. Petition of Electors for Amendment of Charter.
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Section 1. Existing Ordinances—To Continue in Force.—All ordinances, regulations and resolutions in force at the time this charter takes effect, and not inconsistent with the provisions thereof, shall remain and be in force until altered, modified or repealed by the Common Council.

R. S. 1899, Sec. 6386; R. S. 1909, Sec. 9730.

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| Ordinances, when inconsistent; rules as to construction, repeals and inconsistency. (Ex Parte Joffee, 46 Mo. App 360; Quinette vs St. Louis, 76 Mo. 402; State ex rel. vs May, | 106 Mo. 488; Delaney vs Police Court of Kansas City, 167 Mo. 667, l. c. 676; Sluder vs Transit Co., 189 Mo. 107, l. c. 194; State ex rel. vs Harter, 188 Mo. 516; Yall vs Gillham, 187 Mo. 393.) |
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Sec. 2. Measures and Proceedings Pending—Remain Unaffected.—All measures and proceedings pending or under consideration in the Common Council or either House thereof at the time this charter takes effect and not inconsistent with the provisions thereof, shall remain unaffected by this charter and may be acted upon and disposed of the same as if they had originated under this charter.

Sec. 3. Public Improvements Commenced Prior to Taking Effect of This Charter—Proceedings Continued.—Any street paving or repaving or other public improvement declared to be necessary by any resolution which shall have been passed by both Houses of the Common Council of Kansas City, Missouri, prior to the time this charter goes into effect, shall be made and the tax bills in payment therefor shall be issued and all proceedings appertaining thereto shall be carried out under the provisions of the charter and ordinances existing at the time of the passage of the original resolution declaring such street paving or repaving to be necessary and the adoption of this charter or any ordinance thereunder shall in no wise affect the validity of or render illegal any proceeding of the Board of Public Works or Board of Park Commissioners or of the Common Council or of the City of Kansas City, or of any officer or agent thereof which has been or shall be had or carried out in accordance with the provisions of the charter and ordinances existing at the time of the passage of said original resolution, but any and all such proceedings shall be legal and valid.

Sec. 4. Existing Rights of Action, Etc.—All rights of action, contracts, titles, fines, penalties and forfeitures accrued to the city before this charter goes into effect shall remain in existence in full force and effect, unaffected thereby, and may be prosecuted, recovered and received as fully in every respect as if this charter had not taken effect.

R. S. 1899, Sec. 6369; R. S. 1909, Sec. 9713.

Sec. 5. Ordinances—Proof of.—All ordinances, resolutions and proceedings of the Common Council may be proved by the seal of the corporation attested by the officer having charge thereof and when printed and published by authority of the city, the same shall be received in evidence in all cases and places by all courts without further proof.

R. S. 1899, Sec. 6364; R. S. 1909, Sec. 9708.

See Article III, Section 12.

Courts will not take judicial notice of ordinances. (*St. Louis vs Roche*, 128 Mo. 541; *State ex rel. vs Sherman*, 42 Mo. 210; *Mooney vs Kennett*, 19 Mo. 551; *Cox vs St. Louis*, 11 Mo. 431; *Keane vs Klausman*, 21 Mo. App. 485; *St. Louis vs Railroad*, 12 Mo. App. 591; *City of Tarkio vs Loyd*, 179 Mo. 600; *St. Louis vs Liessing*, 190 Mo. 464, l. c. 490; *St. Louis vs Bippen*, 201 Mo. 528, l. c. 532; *Town of Canton vs Madden*, 120 Mo. App. 404, l. c. 409.)

Persons dealing with city and all who come within scope of ordinances must take notice of them. (*Jackson vs Railway*, 118 Mo. 199; *Keating vs Kansas City*, 84 Mo. 415; *Palmyra vs Morton*, 25 Mo. 593; *Sluder vs Transit Co.*, 189 Mo. 107, l. c. 132.)

Party exerting right or justifying act under ordinance should plead same. (*Givens vs Van Studdiford*, 86 Mo. 149, and cases there cited; *City of Tarkio vs Loyd*, 179 Mo. 600.)

Where ordinance is sought to be introduced merely as an evidential fact it need not be pleaded. (*Bragg vs Metropolitan Street Railway Co.*, 192 Mo. 331, l. c. 350, 351.)

How pleaded. (*State vs Dineen*, 203 Mo. 628, and cases cited.)

Proof of ordinances. (*Porter vs Construction Co.*, 214 Mo., 1; *Town of*

Canton vs Madden, 120 Mo. App. 404.)

Ordinances contained in printed book published by authority of city are admissible in evidence. (*City of Tarkio vs Cook*, 120 Mo. 1; *St. Louis vs Foster*, 52 Mo. 513; *Apitz vs Railroad*, 17 Mo. App. 419.)

Must be published by authority of City Council. (*Cavanev vs City of Milan*, 99 Mo. App. 672.)

Proof by certified copy. (*Sheehan vs Owen*, 82 Mo. 458.)

Proof by entries in books, journal records of municipality. (*City of Clarence vs Patrick*, 54 Mo. App. 462; *City of Billings vs Dunnaway*, 54 Mo. App. 1; *Sheehan vs Owen*, 82 Mo. 458.)

But see *City of Rockville vs Merchant*, 60 Mo. App. 365.

Parol evidence to prove lost or destroyed ordinance. (*Wells vs Pressy*, 105 Mo. 164; *Knight vs Railroad*, 70 Mo. 231; *City of Rockville vs Merchant*, 60 Mo. App. 365; *Stephan vs Metzger*, 95 Mo. App. 609, l. c. 621; *Cavanev vs City of Milan*, 99 Mo. App. 672.)

Parol evidence not admissible to prove existence of ordinance, when. (*Stewart vs Clinton*, 79 Mo. 603.)

Revision of ordinances not new law. (*St. Louis vs Foster*, 52 Mo. 513; *Cape Girardeau vs Riley*, 52 Mo. 424.)

Sec. 6. Existing Recognizances, Taxes, Etc., Due to City, to Continue Unaffected.—All recognizances, obligations and all other instruments entered into or executed by or to the city before this charter takes effect, and all fines, taxes, penalties and forfeitures due or owing to the city, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by this charter.

R. S. 1899, Sec. 6366; R. S. 1909, Sec. 9710.

Sec. 7. Existing Judicial Proceedings, Condemnation Proceedings and Contracts, to Remain Unaffected.—All judicial proceedings of any kind or character and all condemnation proceedings growing out of the taking or damaging of private property for any public use, begun or pending at the time this charter takes effect, all contracts for the doing of any kind of public work whether to be paid for out of the revenue of the city or by special assessment or taxation, and all things done or to be done under or by reason of any such contract or the doing of any work thereunder, not completed and performed at the time this charter takes effect, shall in no wise be affected by this charter, and the same shall be conducted and prosecuted to completion and performance in every respect under the provisions of the charter and amendments thereof which this charter supersedes.

Sec. 8. Appeals by City—Bond Without Security—Inhabitants May be Jurors or Witnesses.—The city, in taking an appeal or prosecuting a writ of error in any judicial proceeding, shall give bond as required by law; but it is hereby released from the obligation of law to furnish security therefor; every such bond shall be executed by the Mayor in the name of the City, under the corporate seal thereof, and shall be taken in all courts of this State as a full compliance with the law in such cases. In all actions brought by or against Kansas City, the inhabitants of the city may be jurors or witnesses if otherwise competent and qualified.

R. S. 1899, Sec. 6367; R. S. 1909, Sec. 9711.

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| In the absence of last provision, the tax-paying inhabitants would not be competent as jurors. (<i>O'Brien vs Vul-</i> | <i>can Iron Works</i> , 7 Mo. App. 257, and cases there cited.) |
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Sec. 9. Existing Officers—Hold Over Until Successors Qualified—City Attorney.—All persons in office in the city at the time of the taking effect of this charter shall hold their offices until their successors are elected or appointed and qualified, and no officer of the city who was qualified to hold his office under the provisions of the charter which this charter supersedes shall be considered as disqualified to hold such office by reason of any additional disqualification contained in this charter and existing as to such officer at the time this charter takes effect, and any such officer shall be entitled to continue in his office notwithstanding the existence of such additional disqualification. In all cases where the authority or duties pertaining to any office held by any person at the time this charter takes effect are either changed, increased or diminished by this charter, the authority and duties of the person holding any such office shall henceforth be measured and determined solely in accordance with the provisions of this charter pertaining to such office. The City Attorney in office at the time this charter takes effect shall continue to discharge the duties and receive the compensation of that office as defined and provided by the provisions of the charter and amendments thereof which this charter supersedes until the third Monday in April, 1910, anything in this charter to the contrary notwithstanding.

Sec. 10. Existing Lien for Taxes Continued in City—What Property Forfeited to City—Right to Redemption Not Affected by This Charter.—Any lien on real property existing in favor of the State of Missouri, or of Kansas City, at or before the taking effect of this charter, for taxes and special assessments levied by such city, and all right, title and estate acquired by or vested in the State of Missouri or in Kansas City, by reason of the forfeiture or sale to the State or the city of any tract of land, town or city lot offered at public sale for taxes, or special assessment levied by such city, interest and costs due thereon, and not sold to others for want of bidders, are hereby assigned and transferred to and continued in such city; and all lands, town or city lots forfeited or sold to the State of Missouri or such city on account of taxes or special assessments levied thereon by the city, or sold to the city in action for taxes or special assessments levied thereon by the city, shall, from the taking effect of such Charter, be deemed and taken to be forfeited and sold to the city. In all cases where

certificates of purchase have at the time when this Charter takes effect been made out in the name of the purchasers at any sale for such delinquent taxes or special assessments, the right to redeem from any such sale, or to a deed or deeds, shall not be affected or impaired by anything in this Charter contained.

Sec. 11. Violation of Ordinance—Warrant to Issue, When.

—A warrant shall issue in all cases in favor of Kansas City for a violation of any ordinance or other regulation upon information by the City Counselor or one of his assistants that such violation has been committed, or upon oath or affirmation of any person that such violation has been committed.

Warrant can issue only on sufficient information of city attorney, or upon oath or affirmation of complainant. (St. Joseph vs Harris, 59 Mo. App. 122; Kansas City vs Flannagan, 69 Mo. 22; Kansas City vs. O'Shea, 69 Mo. 51; Missouri City vs Hutchinson, 71 Mo. 46.)

Under ordinance there in question police judge had no jurisdiction to try offender until information filed. (Kansas City vs O'Connor, 36 Mo. App. 594; But see City of Kirksville vs Munyon, 114 Mo. App. 567.)

Complaint charging offense in language of ordinance sufficient. (St. Louis vs Weitzel, 130 Mo. 600; St. Louis vs Knox, 74 Mo. 79; s. c. 6 mo. App. 247; City of Louisiana vs Anderson, 100 Mo. App. 341.)

Information, sufficiency of not tested by rules of criminal procedure. (Springfield vs Ford, 40 Mo. App. 586; St. Louis vs Smith, 10 Mo. 438; Memphis vs O'Connor, 53 Mo. 468; St. Louis vs Weitzel, 130 Mo. 600; Delaney vs Police Court of Kansas City, 167 Mo. 667, l. c. 678; Town of Canton vs McDaniel, 188 Mo. 207, l. c. 228; In re

Ada Jones, 90 Mo. App. 318; City of Mexico vs Harris, 115 Mo. App. 707, l. c. 711; City of Gallatin vs Fannin, 128 Mo. App. 324, l. c. 328; Gower vs Agee, 128 Mo. App. 427, l. c. 435.)

Information should allege that offense was committed within city limits or contrary to certain ordinances of the city. (State ex rel. vs Baker, 74 Mo. 394; Salisbury vs Patterson, 24 Mo. App. 169; Gower vs Agee, 128 Mo. App. 427.)

Charging violation of the Revised Ordinances without specifying the particular section or provision is insufficient. (Kansas City vs Whitman, 70 Mo. App. 630.)

Allegation "Contrary to the form of the ordinances of said city," too indefinite. (City of Marshall vs Standard, 24 Mo. App. 192.)

Objection that several offenses are charged should be taken by motion to strike out. (St. Louis vs Weitzel, 130 Mo. 600.)

Information cannot be amended on appeal in criminal court. (Kansas City vs Whitman, 70 Mo. App. 630.)

Sec. 12. Existing Right or Liability—Repeal of Any Law by This Charter Not to Affect, What.—

The repeal of any law by the provisions of this Charter shall not in any wise be so construed as to affect any right or liability acquired or accrued thereunder by or on the part of the city, or any person or body corporate. And this Charter shall not in any manner affect any right, lien or liability accrued, established or subsisting under and

by virtue of the previous Charter or any amendment thereto, but such right, lien or liability shall be enforced, and such action or proceeding shall be carried on in all respects as if this Charter had not taken effect; nor shall this Charter be in anywise so construed as to affect the right or liability acquired or accrued under the previous Charter and amendments thereto, or on the part of the city, or any person or body corporate.

R. S. 1899, Sec. 6366; R. S. 1909, Sec. 9710.

This section construed, and held that tax bills issued under former Charter may be enforced as provided in this Charter; that the City Charter can

give new remedies for existing rights. (Kansas City to use vs Summerwell, 58 Mo. App. 246; Kansas City ex rel vs Winner, 58 Mo. App. 299.)

Sec. 13. Notice, Publication, Etc.—How Published—Days, How Computed.—Any notice, advertisement or publication required by this charter to be published shall be held to be well given, made and published, when the same is published for the required number of days in the newspaper doing the city printing on the day of the first publication thereof. In computing the number of days during which the publication is made, Sundays and legal holidays and all calendar days between the first and last publication shall be included and counted whether or not the paper is published on such days.

See note to next section.

No notice is required by constitution to be given to property owners respecting matters which legislature itself determines or delegates to municipal authorities. Publication of notice to property owners and opportunity to be heard are due process of law. (Meier vs St. Louis, 180 Mo. 391.)

Publication notice properly published in paper doing city printing although not newspaper with which Circuit Court has contracted for legal notices. (Kansas City vs Mastin, 169 Mo. 80, 1. c. 92.)

Sufficiency of notice by publication. (Kansas City vs Mastin, 169 Mo. 80,

1. c. 89, 92; Holmes vs Kansas City, 209 Mo. 513.)

Publication on Sunday. (Roth vs Hax, 68 Mo. App. 283; Clapton vs Taylor, 49 Mo. App. 117; Barber Asphalt Paving Co. vs Munchenberger, 105 Mo. App. 47; Curtice vs Schmidt, 202 Mo. 703, 1. c. 714, and cases there cited.)

Affidavit of publisher is prima facie evidence of publication when so provided. Any infirmity of publication must be proved. At common law newspaper does not prove itself. What necessary to overcome presumption of validity of publication. (Ross vs Gates, 117 Mo. App. 236.)

Sec. 14. City Improvements Let by Contract to Lowest Bidder—Repairs, by Days' Work.—All city improvements of whatever kind or character, including the erection of all public buildings, made or to be erected at the expense of the city, and includ-

ing all work to be paid for in special tax bills, and all contracts made by the city or any board, department or officer thereof and all purchases of supplies or other property for the city, except as in this Charter otherwise provided, shall be let by contract to the lowest and best bidder as shall be prescribed by ordinance; provided, however, that nothing in this section shall be so construed as to prevent repair and maintenance by day's work of streets, alleys and other public places, curbing, sidewalks, sewers, culverts, buildings or other city property, so far as may be necessary, under the direction of the board or department having control, management or jurisdiction of such work.

It is imperative that there should be opportunity for competition. (*State ex rel. vs Smith*, 177 Mo. 69, l. c. 86; *Paving Co. vs Field*, 188 Mo. 182 and cases cited. *Curtice vs Schmidt*, 202 Mo. 703, l. c. 720 et seq. *McQuiddy vs Brannock*, 70 Mo. App. 535; *Schoenberg vs Field*, 95 Mo. App. 241, l. c. 249 et seq.; *Dickey vs Holmes*, 109 Mo. App. 721; *Excelsior Springs vs Ettenson*, 120 Mo. App. 215, l. c. 224.)

Notice of bids, when required. (*Galbreath vs Newton*, 45 Mo. App. 312, s. c. 30 Mo. App. 380; *Saxton National Bank vs Carswell*, 126 Mo. 436; *Keane vs Cushing*, 15 Mo. App. 96.)

Essential to validity of tax bills, when. (*Kiley vs Oppenheimer*, 55 Mo. 374.)

Notice of public letting mandatory when required by ordinance. (*Clapton vs Taylor*, 49 Mo. App. 117.)

Advertisement for bids, sufficiency of. (*Morley vs Weakley*, 86 Mo. 451; *Keane vs Klausman*, 21 Mo. App. 485; *City of Louisiana vs Shaffner*, 104 Mo. App. 101.)

Notice not defective because first publication is on Sunday. (*Roth vs Hax*, 68 Mo. App. 283;) or last day on Sunday and no publication on day of letting. (*Clapton vs Taylor*, 49 Mo. App. 117; *Curtice vs Schmidt*, 202 Mo. 703, l. c. 714; *B. A. Paving Co. vs Munchenberger*, 105 Mo. App. 47; *St. Joseph vs Landis*, 54 Mo. App. 315.)

Proof of publication of notice. (*Nevada to use vs Morris*, 43 Mo. App. 586.)

At common law newspaper does not prove itself. (*Ross vs Gates*, 117 Mo. App. 236.)

Fact that there was only one bid does not invalidate contract. (*Paving Co. vs Hezel*, 76 Mo. App. 135, l. c. 152.)

Discretion in selecting lowest bidder. (*Bank vs Woesten*, 147 Mo. 467; *Clapton vs Taylor*, 49 Mo. App. 117; *Barber Asphalt Paving Co. vs Hezel*, 76 Mo. 135, l. c. 152.)

Lowest and best bidder, determination of city authorities conclusive in absence of fraud or bad faith. (*Clapton vs Taylor*, 49 Mo. App. 117; *State ex rel. vs McGrath*, 91 Mo. 386.)

If lowest bidder declines to enter into contract city may re-advertise for bids. (*City of Lexington vs Bank*, 130 Mo. App. 687.)

Or contract may be awarded to next lowest bidder without re-advertising for bids. (*Gibson vs Owens*, 115 Mo. 356.)

But if awarded to next lowest bidder at different prices than those contained in his bid, the tax bills will be void. (*Guinotte vs Egelhoff*, 64 Mo. App. 356.)

After work has been completed, cannot be objected that same was not let to lowest bidder. (*Johnson vs Duer*, 115 Mo. 366; *Bank vs Woesten*, 147 Mo. 467, l. c. 483.)

Contractor before making bid cannot agree with certain property owners to take less for work for which their property is liable without vitiating tax bills issued against other owners, but he may after tax bills are issued, settle them for less than their face. (*Kurtz vs Knapp*, 127 Mo. App. 608.)

Municipality not liable for damages for refusing to accept bid. (*Coquard vs School District*, 46 Mo. App. 6.)

Mistake in bid, withdrawal of bid. (Moffett vs City of Rochester, 173 U. S. 373.)

Contents of lost written bid shown by parol evidence. (Morley vs Weakley, 86 Mo. 451.)

Contract cannot be awarded before expiration of time required for advertising. (Kiley vs Oppenheimer, 55 Mo. 374.)

Authority to advertise for bids does not begin until ordinance providing for work goes into effect. (Cushing vs Russell, 134 Mo. App. 650.)

But see Smith vs City of Westport, 105 Mo. App. 221, l. c. 224, 225.

Notwithstanding competition in letting contracts is required, yet if there is patented article or article in hands of one person or company which is necessary for public improvement and no one else has same general character of material which could be brought into competition, city is not forced to use other clearly inferior material. (Curtice vs Schmidt, 202 Mo. 703, l. c. 725; Barber Asphalt Paving Co. vs Hunt, 100 Mo. 22; Verdin vs St. Louis, 131 Mo. 26; Swift vs St. Louis, 180 Mo. 80; Paving Co. vs Field, 188 Mo. 182; Construction Co. vs Coal Co., 205 Mo. 49; Taylor vs Schroeder, 130 Mo. App. 483; State ex rel. vs Smith, 177 Mo. 69; Field vs Paving Co., 194 U. S. 618.)

Contract may provide for such extra work as may be required owing to unforeseen circumstances in executing the work according to contract, and may provide that the price therefor shall be fixed by officer of city. (Allen vs Rodgers, 20 Mo. App. 290; Heman vs St. Louis, 213 Mo. 538.)

And terms for repairs with those of construction. (Bank vs Woesten, 147 Mo. 467; Barber Asphalt Paving Co. vs Hezel, 76 Mo. App. 135.) And for maintenance. (Bank vs Woesten, 176 Mo. 49; Paving Co. vs Munn, 185 Mo. 552; G. R. Asphalt Co. vs St. Louis,

188 Mo. 576; Allen vs Labsap, 188 Mo. 692.)

Repairs. (Heman vs St. Louis, 213 Mo. 538.)

Contract awarded should accord with the ordinance and advertisement for bids, and work should conform to contract. (Galbreath vs Newton, 30 Mo. App. 380; Construction Co. vs Coal Co., 205 Mo. 49, l. c. 68; City of Sedalia vs. Abell, 103 Mo. App. 431, l. c. 437; Kansas City vs Askew, 105 Mo. App. 84; Dickey vs Holmes, 109 Mo. App. 721; Turner vs City of Springfield, 117 Mo. App. 418; Excelsior Springs vs Ettenson, 120 Mo. App. 215; City of Marshall to use vs Wisdom, 127 Mo. App. 640.)

Literal compliance with contract not essential to validity of tax bills. (Rose vs Trestrail, 62 Mo. App. 352; Cole vs Skrainka, 105 Mo. 303; s. c. 37 Mo. App. 427; Heman vs Gerardi, 96 Mo. App. 231; City of Springfield vs Mills, 99 Mo. App. 141, l. c. 145.)

Fact that city is required to let contract to lowest bidder does not constitute city agent of owners of property abutting on street to sue for damages to them for breach of the contract. City does not act for them in letting contract. (St. Louis vs Wright Contracting Co., 202 Mo. 451.)

City engineer cannot vary terms of contract. (Burke vs Kansas City, 34 Mo. App. 570; Wilson vs St. Joseph, 125 Mo. App. 460.)

City cannot annul contract for its own default. (Murray vs Kansas City 47 Mo. App. 105; Kemp vs School District, 84 Mo. App. 680.)

Contract may be assigned, when. (St. Louis to use vs Clemens, 42 Mo. 69; Gordon vs Jefferson City, 111 Mo. App. 23; Brick & Terra Cotta Co. vs Hull, 49 Mo. App. 433.)

Assignment of money due under contract is not assignment of contract. (Dickey vs Porter, 203 Mo. 1.)

Sec. 15. Conservators of the Peace—Arrest by—Detention of Offender Over a Night, Etc.—The Mayor, each member of the Common Council, Chief of Police, and all Police Officers, shall be conservators of the peace and all officers of the city created conservators of the peace by this Charter, or authorized by any ordinance, shall have power to arrest, or cause to be arrested, with

or without process, any person who shall break the peace or be found violating any ordinance of the city or the laws of the State, and commit for examination, and if necessary detain such person or persons over night, or on the Sabbath, in the city prison or any other place, or until they can be brought before the Judge of the Municipal Court, or other proper officer, and shall have and exercise such other powers as conservators of the peace as the city may prescribe.

State ex inf. vs Vallins, 140 Mo. 523, 1. c. 537.

Sec. 16. Unpaid Taxes—Certificate of—Fee.—The City Treasurer shall, on demand of any party, give to such party a certificate signed by him showing all unpaid taxes, if any, and all outstanding tax-sale certificates, if any, against any lot or parcel of land mentioned in the demand, as appears by the books and records in his office and by the book of sales in the Auditor's office, or if there are none the certificate shall show that fact. For such certificate a fee of ten cents for each lot or parcel of land shall be collected by the City Treasurer, and shall belong to the city as a part of the general fund. The Treasurer shall have access at all times to the books of sales to make searches for certificates.

Sec. 17. Condemnation Ordinances and Proceedings—Certificate as to—Fee.—The City Clerk shall, on demand of any party, give to such party a certificate signed by him referring to all ordinances of the city, if any, for condemnation of land for public use under which proceedings have been or may be taken, and in the course of which proceedings any lot or parcel of land mentioned in the demand has been or is liable to be assessed with special benefits. For such certificate a fee of ten cents for each lot or parcel of land shall be collected by the City Clerk, and shall belong to the city as a part of the general fund.

Sec. 18. Officers—Filling Office Temporarily.—In case any elective or appointive officer of the city shall be necessarily absent from the city, or unable from sickness or any other cause to discharge the duties of his office, the Mayor, or if such officer shall have been elected or appointed by any board, commissioner or other officer, then such board, commission or other officer, may fill such office temporarily by appointment, such appoint-

ment to be recorded by the City Clerk and the appointee to hold and discharge the duties of the officer whose place may be thus filled temporarily until he shall return or become fit for and enter on duty. Officers thus temporarily appointed shall qualify and give such bond as may be required by ordinance.

Sec. 19. Persons Holding Office, to Engage in the Actual Work.—All persons holding any office under the city whether elective or appointive, shall be required to engage in the actual work of the office so held, to the extent that their services may be necessary for the full and complete discharge of the duties of said office, and a failure to do so shall be grounds for removal by the proper authority.

Sec. 20. Licenses—Expiration of.—All licenses issued by the city shall expire on January fourth or July fourth of each year, except as otherwise provided in this Charter.

Sec. 21. Bonds—Approval of—Where Filed.—All bonds given to or for the benefit of the city pursuant to this Charter or any city ordinance and not by this Charter required to be otherwise approved, must be approved by the City Comptroller, and all bonds except the official bond of the City Comptroller, must be filed and left with the City Comptroller as the official custodian thereof. No appeal bond from any judgment of any Municipal Court shall be accepted unless the same be first approved by the Comptroller. The city shall pay the premium on all bonds required to be given to the city by officers serving without compensation, conditioned for the faithful discharge of official duties.

Sec. 22. Members of Board Serving Without Compensation—Allowed Actual Expense.—The members of boards provided for by this Charter who receive no compensation for their services shall be allowed their actual expenses incurred in the discharge of their duties, which expenses shall be allowed and paid as other expenses and disbursements of said boards.

Sec. 23. General Election—Time For.—A general election of all officers of the city required to be elected by this Charter, or under any ordinance of the city, shall be holden on the first Tuesday after the first Monday in April, in the year A. D. 1910,

and every two years thereafter on the same Tuesday of the same month.

By Ballot.—All elections shall be by ballot and continue for one day only.

Polls, Opening and Closing of.—Unless otherwise provided by law, the polls shall be opened at six o'clock in the morning and be closed at seven o'clock in the evening, and shall not be closed during that time under any pretext whatever.

Qualified Voters.—All persons qualified as electors under the constitution and laws of the State of Missouri, being duly registered, shall be deemed qualified voters at all elections.

Authority of state to regulate elections in charter cities. (Ewing vs Hoblitzelle, 85 Mo. 64.)

Sec. 24. Election—Precincts.—In providing for elections, precincts shall be made by the Common Council of the city of compact and contiguous territory regarding ward lines.

Sec. 25. Election—Betting or Wagering on—Pool Selling—Misdemeanor.—Every person who shall bet or wager by any means whatever any money or other valuable thing, or shall sell or purchase any pools on the result of any election authorized by this Charter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars; and any person who shall keep or maintain within the city a place where such bets or wagers are made, or where pools are sold and purchased on such election, shall be deemed guilty of a separate misdemeanor for every day such place shall be so kept or maintained, and for each such offense he shall be punished by a fine not exceeding five hundred dollars.

Sec. 26. Fiscal Year, Beginning and Ending—Officers Enter Upon Duties.—The fiscal year of the city shall begin at high noon on the third Monday in April of each year and extend to high noon on the third Monday in April following, and shall be known and designated for all purposes by the number of the calendar year in which such fiscal year begins. All elective city officers provided for in this Charter shall enter upon the duties of their offices at the beginning of the fiscal year next following their

election. All appointive officers shall enter upon the duties of their offices as soon as appointed and qualified.

Sec. 27. Boards, Departments, Commissions, Classification of—Certified to City Clerk.—Whenever it is provided in this Charter that the members of any Board, Department or Commission shall so classify themselves by lot that their terms of office shall expire at different times, such members shall, on the day of making such classification, cause the same to be entered in the records of their proceedings, and a copy thereof, certified by the Secretary thereof and signed by all of said members, shall be filed with the City Clerk. In every case such classification must be made at the first meeting of the Board, Department or Commission.

Sec. 28. Papers, Records, Etc., of Superseded Officers—Who Entitled To.—The Departments, Boards, Commissioners and Officers provided for in this Charter shall be entitled to the possession of all papers, books, documents, maps, plats, records and archives in the possession or under the control of those respectively who are superseded under this Charter by such Departments, Boards, Commissioners and Officers.

Sec. 29. Special Elections—Regulated by Ordinance.—All special elections not otherwise provided for, shall be held under such regulations as may be prescribed by ordinance. Subject to the constitution and laws of the State governing the city, provision may be made by ordinance for the holding of any election for any lawful purpose, and for conducting the same and ascertaining and declaring the result thereof and making a proper record to evidence the results.

Sec. 30. Kansas City Successor to City of Kansas—Proceedings Pending in Name of City of Kansas, Continued in Such Name—Kansas City a Continuous Body.—Kansas City is hereby declared to be the legal successor of the City of Kansas and shall be entitled to all the property and rights of every nature whatsoever standing in the name of or belonging to the City of Kansas, and the same shall inure to and be vested in Kansas City. All proceedings now pending in the name of the City of Kansas shall be continued in such name and shall remain unaffected by the adoption of this Charter. And Kansas City shall be held to

be a continuous body politic and corporate without interruption under each and all the successive Charters and amendments thereof from the original incorporation of the City of Kansas, and the City of Kansas City as well as under this Charter.

Sec. 31. Issuing of Bonds—Limit of Amount—Sale of—Proceeds, How Applied—Proposition to Issue Bonds, Shall Specify Amount of Bond for Each Particular Purpose.—The Common Council may, by ordinance, from time to time, within the limits of and in conformity with the provisions of the constitution of the State, as now amended, or as it may hereafter be amended, submit to the qualified voters of the city, at any special or general election, a proposition or propositions that the city issue its bonds to an amount not exceeding the limit authorized by the constitution of the State of Missouri, as now amended, or as it may hereafter be amended; *provided*, that such bonds shall not be sold for less than their par value; and *provided*, further, that the proceeds of said bonds shall be applied to the construction of public sewers within the limits of the city, or to such outlets outside the limits of the city, or to acquiring the right-of-way therefor, as may be deemed by the Common Council necessary to secure proper drainage; or to the purchase of lands within or without the limits of the city, for public parks or boulevards, or to improving, adorning or beautifying public parks or boulevards; or to the purchase of lands for public squares; or to the purchase of sites for market houses; or to the construction, equipment, improvement, extension or enlargement of market houses; or to the purchase of sites for hospitals, or to the construction, equipment, improvement, extension or enlargement of hospitals; or to the making of extensions, enlargements, improvements, or betterments of the water works; or to the payment for land or right-of-way acquired by purchase or condemnation, within or without the limits of the city, or within or without the limits of the State of Missouri, for the water works; or to any other public improvement or purpose, of any nature or kind whatsoever, whether herein specifically enumerated or not; and *provided*, further, that the Common Council shall, in submitting any such proposition or propositions, to issue bonds, expressly specify the amount of bonds to be issued for each particular purpose.

What Deemed One Particular Purpose.—And, *provided*, further, that within the meaning of the proviso, next immediately preceding, the construction of public sewers within the limits of the city, and the construction of outlets therefor outside the limits of the city, and the acquiring of the rights-of-way therefor, or any one or more of said objects shall be deemed one particular purpose; the purchase of lands within and without the limits of the said city for public parks or boulevards, or both, or any one or more of said objects, shall be deemed one particular purpose; the improving, adorning and beautifying parks or boulevards, or both, or any one or more of said objects shall be deemed one particular purpose; the purchase of land for public squares shall be deemed one particular purpose; the purchase of sites for market houses, and the construction, equipment, improvement, extension and enlargement of market houses, or any one or more of said objects shall be deemed one particular purpose; the purchase of sites for hospitals, and the construction, equipment, improvement, extension and enlargement of hospitals, or any one or more of said objects, shall be deemed one particular purpose; the making of extensions, enlargements, improvements and betterments of the waterworks, and the payment for land and the right-of-way acquired by purchase or condemnation or both, within or without the limits of the city, and within or without the limits of the State of Missouri for water works, or any one or more of said objects, shall be deemed one particular purpose.

Bonds Dated July 1, 1905, Not Included in Existing Bonded Indebtedness—Denominations of—How Executed—How Paid.—The amount of bonds issued by the city, bearing date July 1, 1895, for acquiring water works, and all bonds hereafter issued in renewal of said bonds, or any portion thereof, shall not be included in the computation of the existing bonded indebtedness of said city in determining the amount of bonds authorized to be issued by said city, with the assent of two-thirds of the voters under the provisions of Article ten (X) of the Constitution of the State of Missouri, as now amended or as the same may hereafter be legally amended; but the city shall be authorized to issue bonds with the assent aforesaid to an amount included outstanding indebtedness, other than that above named, to the amount of five per centum of the value of the taxable property in said city, to be ascertained in the manner provided by the said constitution of the State of Missouri, by the assessment next

before the last assessment for state and county purposes, previous to the incurring of such indebtedness. Such bonds shall be in denominations of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) each, payable to bearer, in not less than five (5) nor more than twenty (20) years from the date thereof, with interest from date not exceeding five (5) per cent per annum, payable semi-annually; and shall have interest coupons attached to conform to the face of the bonds; and such bonds shall be under the seal of the city, signed by the Mayor, attested by the City Clerk, countersigned by the City Comptroller, and in all respects shall be in such form, and issued and sold in such manner as may be prescribed by ordinance.

Annual Tax and Sinking Fund.—The city shall, before or at the time of issuing such bonds, provide for the collection of an annual tax, sufficient to pay the interest on the bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof at maturity.

City may levy taxes in excess of general taxation to pay interest on municipal bonds issued for indebtedness created since, as well as before the constitution of 1875. (*Lamar W. & E. L. Co., vs Lamar*, 128 Mo. 188; *Evans vs McFarland*, 186 Mo. 703; *Black vs Early*, 208 Mo. 281.)

Municipal indebtedness, limit of. (State constitution, Art. X, Secs. 11 and 12; *Lamar W. & E. L. Co. vs Lamar*, 128 Mo. 188; *Pryor vs Kansas City*, 153 Mo. 135; *State ex rel. vs Ry. Co.*, 169 Mo. 563; *Evans vs McFarland*, 186 Mo. 703; *Trask vs Livingston Co.*, 210 Mo. 582; *State ex rel. vs Payne*, 211 Mo. 64; *State ex rel. vs Allen*, 183 Mo. 283; *Saleno vs City of Neosho*, 127 Mo. 627; *State ex rel. vs Gordon*, 217 Mo. 103.)

Judicial power cannot scale a debt down to constitutional limit, if debt is invalid because in excess of constitutional limit, whole debt is invalid. (*State ex rel. vs City of Neosho*, 203 Mo. 40. *Thornburg vs School District No. 3*, 175 Mo. 12.)

Municipal bonds, validity of, bona fide holder. (*Flagg vs Palmyra*, 33 Mo. 440; *Barrett vs County Court*, 44 Mo. 197; *State ex rel. vs County Court*, 45 Mo. 242; *Steines vs Franklin County*, 48 Mo. 167; *Carpenter vs Town of*

Lathrop, 51 Mo. 483; *Smith vs County of Clark*, 54 Mo. 58; *State ex rel. vs Greene Co.*, 54 Mo. 540; *Thornburg vs School District*, 175 Mo. 12; *Evans vs McFarland*, 186 Mo. 703.)

Water works bonds, two purposes in same proposition. (*State ex rel. vs Allen*, 183 Mo. 283; *State ex rel. vs Allen*, 186 Mo. 673; *State ex rel. vs Wilder*, 200 Mo. 97; *State ex rel. vs Wilder*, 217 Mo. 261.)

Construction of bridge. (*Haeussler vs St. Louis*, 205 Mo. 656.)

Construction of City Hall. (*State ex rel. vs Allen*, 186 Mo. 673.)

Power to contract a debt by bond carries with it power to levy taxes to pay same unless expressly limited; mandamus. (*U. S. vs New Orleans*, 98 U. S. 381.)

A lawful issue of bonds is not only binding upon municipality, but even power of the State itself to alter or destroy its municipal corporations or change boundaries thereof, cannot be so exercised as to impair obligation of such bonds; proper officers of old municipality may be compelled by mandamus to make an assessment and levy taxes for their payment. (*Graham vs. Polsom*, 200 U. S. 218.)

Debts cannot be contracted and money borrowed by any municipality

without express authority or authority necessarily implied as being essential to carry into effect powers which are expressly granted. (*Haeussler vs St. Louis*, 205 Mo. 656, l. c. 680.)

Where express power to hold election is given all power necessary to

carry it into effect is implied. (*State ex rel. vs M. K. & T. Ry. Co.*, 164 Mo. 208.)

Not necessary if two-thirds of people assent to bond issue that people vote directly on levy itself. (*Evans vs McFarland*, 186 Mo. 703.)

Sec. 32. Provisions of This Charter Which Are Continuing—Proceedings Under Superseded Charter, Reaffirmed.—All provisions contained in this Charter which are the same as provisions contained in the Charter of the city or any amendment thereof, which this Charter supersedes, shall be taken, held and construed as continuing such provisions of said superseded Charter and amendments in uninterrupted force and effect, and all acts, things and proceedings done or had thereunder are hereby reaffirmed in all things, whether the same have been completed or are in process of being carried out, or have been merely authorized and the same authorized to complete all such acts, things and proceedings shall continue as if said superseded Charter and amendments thereof had not been superseded by this Charter.

Revision of ordinances not new law. | of Cape Girardeau vs Riley, 52 Mo.
(*St. Louis vs Foster*, 52 Mo. 513; City | 424.)

Sec. 33. "Charity Day" Named.—The second Thursday in May of each year is hereby named as a day to be known and observed in Kansas City as "Charity Day," on which appropriate measures may be taken for alleviating the condition of the poor and needy.

Sec. 34. Amendment of Charter—Proceedings For.—This Charter may be amended at any time by a proposal therefor made by the law-making authorities of the city, published for at least thirty days in three newspapers of the largest circulation in the city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of the city voting at a general or special election. The city may, by ordinance, subject to all laws, provide as to the form of submitting to such voters at any election any proposed amendment, and for ascertaining the results of the election on such proposed amendment, and making proper record of the fact.

R. S. 1899, Secs. 6359, 6399, 6404. R.S. 1909, Secs. 9703, 9743, 9748.

Amendment must be accepted by three-fifths of the voters voting at the election. (State ex rel. vs Mayor of St. Louis, 73 Mo. 435; State vs Winkelmeier, 35 Mo. 103; School District vs Oellien, 209 Mo. 464.)

Extension or contraction of territorial limits is an amendment of charter. (Art. I, Sec. 4. Westport vs Kansas City, 103 Mo. 141; Copeland vs St. Joseph, 126 Mo. 417; Kansas City vs Stegmiller, 151 Mo. 189; see introductory note. Birch vs City

of Plattsburg, 180 Mo. 413; State ex rel. vs Birch, 186 Mo. 205.)

The constitutional provision that the charter may be amended by a vote of the people as therein mentioned, "and not otherwise," held to exclude "State legislative power over such city charters, so far as relates to the government of subjects of merely local and municipal concern." (Kansas City ex rel. vs Scarritt, 127 Mo. 642.)

Free Holders' charter may be supplanted by new one. (Morrow vs Kansas City, 186 Mo. 675.)

Sec. 35. Petition of Electors for Amendment of Charter.—In case there be filed with the City Clerk at any time a petition or petitions signed by qualified electors of Kansas City, numbering not less than ten per cent of the whole number of votes cast for all candidates for Mayor at the last preceding city election, requesting the law making authorities of the city to submit to the qualified electors of the city a proposal for an amendment to this Charter as in said petition or petitions set forth, the said law-making authorities of the city may submit such proposal for an amendment in the manner provided in the next preceding section.

Sec. 36. Charter—Public Act—Evidence.—This charter is declared to be a public act, and may be read in evidence in all courts of this State without proof.

Courts will take judicial notice of the city charter. (Kansas City vs Smart, 128 Mo. 272; Nutter vs Railroad, 22 Mo. App. 328; Kansas City vs Block, 175 Mo. 433, l. c. 440.)

But not of city charters not declared to be public acts. (Bowie vs Kansas City, 51 Mo. 454; Town of Butler vs Robinson, 75 Mo. 192; City of Hopkins vs Railroad, 79 Mo. 98; State ex rel.

vs Sherman, 42 Mo. 210; Apitz vs Railroad, 17 Mo. App. 419.)

Judicial notice will be taken that Kansas City is in Jackson County. (Comfort vs Ballingal, 134 Mo. 281; Kansas City vs Block, 175 Mo. 433.)

Court will not take judicial notice of ordinances. See Sec. 5 this Article and note.

Done at Kansas City, this 6th day of July, A. D. 1908.

J. V. C. KARNES,
WALTER J. BALES,
WM. P. BORLAND,
CHARLES CAMPBELL,
FRANKLIN D. CRABBS,
ANDREW F. EVANS,
R. J. INGRAHAM,
ROBERT B. MIDDLEBROOK,
JOHN A. MOORE,
JOHN H. THACHER,
FRANK W. TUTTLE,

.....
.....

C. J. Hubbard and D. J. Haff, as two of the Freeholders-elect participated in the preparation of the above Charter, but on account of their absence from the State at the time the Charter was returned, were unable to sign the same.

The Board of Freeholders further returned the two sections shown on pages 203 and 204, at the end of Article IV, to be submitted and presented for the choice of the voters, in the alternative, to be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of this Charter, with the provision that if either of said sections should be adopted, it should be known as section thirty of Article IV of this Charter.

**REVISED ORDINANCES OF KANSAS CITY
OF 1909.**

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REVISED ORDINANCES

No. 4031.

Be it Ordained by the Common Council of Kansas City.

CHAPTER 1:

ANIMALS RUNNING AT LARGE.

Article.

- I. Power and Duties of Dog Enumerator and Public Impounder. •

Article.

- II. Dogs and Other Animals.

ARTICLE I.

DOG ENUMERATOR AND PUBLIC IMPOUNDER.

Section.

1. Appointment of Enumerator and Impounder.
2. Shall Give Bond.
3. Enumeration and Record.
4. Assistants.
5. Commission of Assistants.

Section.

- C. To Wear Badges.
7. Penalty.
8. Compensation.
9. Obstructing Impounder.
10. Report of Enumerator and Impounder.

Section 1. Appointment of Enumerator and Impounder.—

There is hereby created the office of dog enumerator and public impounder and at the first regular meeting of the council, after the passage and publication of this ordinance, and on or before the first day of May of each succeeding two years thereafter, the Mayor, by and with the consent of the Upper House of the Common Council, shall appoint a dog enumerator and public impounder, whose duty it shall be to enforce all ordinances regulating or in any manner relating to dogs, hogs, horses, mules, asses, sheep, goats and cattle, or either of said classes of animals. He shall, unless sooner removed, hold his office for two years, and until his successor is appointed and qualified.

Sec. 2. **Shall Give Bond.**—Before entering upon his duties he shall give bond to the city, with good and sufficient securities, to be approved by the City Comptroller, in the sum of two thousand five hundred dollars, conditioned upon the faithful performance of his official duties and that he will properly account to Kansas City for all money received by him in his official capacity.

Sec. 3. **Enumeration and Record.**—The dog enumerator and public impounder shall make an enumeration of the dogs of the

city of Kansas City and shall serve notice on the owners, keepers or harborers of such dogs to register the same, as provided in this ordinance. He shall keep a legible record of the same which shall be open at all times to the inspection of any person.

Sec. 4. Assistants.—The dog enumerator and public Impounder is hereby authorized and directed to employ one assistant, who shall be located at the public pound, and who shall receive compensation at the rate of seventy-five dollars (\$75.00) per month while employed, and one assistant for general work, who shall receive compensation at the rate of twenty-five dollars (\$25.00) per month while employed. Said assistants shall be paid in the same manner and at the same time as other officers and employes of the city are paid.

Sec. 5. Commission of Assistants.—All assistants employed by the dog enumerator and public impounder shall be required to get a written commission from the City Clerk, and shall register their names with the said City Clerk.

Sec. 6. To Wear Badges.—The dog enumerator and public impounder and each of his assistants shall wear a badge with the words "Dog Enumerator" or "Public Impounder" plainly legible thereon, and must be worn in some conspicuous place about the person while engaged in performing the duties prescribed in this ordinance.

Sec. 7. Penalty.—The dog enumerator and public impounder and any person who shall act as assistant to the dog enumerator and public impounder, without first taking out the commission, provided for herein, or in wearing the badge as prescribed herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than fifty dollars.

Sec. 8. Compensation.—The dog enumerator and public impounder shall be entitled to receive for his services 20 per cent of the money received by the City Treasurer for the registration of dogs, but the maximum sum of said fees shall not exceed the sum of fifteen hundred dollars in any one fiscal year. Said fees, which shall be twenty per cent of the moneys received by the City Treasurer during the previous month for the registration of dogs.

shall be paid to the dog enumerator and public impounder in the manner prescribed by ordinance for the payment of the salaries of other city officers.

Sec. 9. Obstructing Impounder.—Any person who shall obstruct the dog enumerator and public impounder or his assistants in the lawful discharge of their duties shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five dollars nor more than one hundred dollars.

Sec. 10. Report of Enumerator and Impounder.—The Dog Enumerator and Public Impounder shall weekly, on each Monday, report to the City Treasurer the amount of receipts and expenditures of the week, and shall turn over the receipts, less the expenditures, to said Treasurer, taking his receipt therefor, and once in every three months, or oftener if so required, he shall make a report in writing to the Common Council showing the amount of receipts and expenditures of his office.

ARTICLE II.

DOGS AND OTHER ANIMALS.

| Section. | Section. |
|--|---|
| 11. Registering Dogs. | 23. Horses, Mules, Cows, Etc. |
| 12. Fees, Etc. | 24. Release and Sale of Animals Impounded. |
| 13. Effect of Registration. | 25. Turning Out Animals to be Impounded. |
| 14. Dogs to Wear Collars with Tags. | 26. Record of Sales. |
| 15. Removal of Collars. | 27. Pound to be Provided. |
| 16. Dangerous Dogs. | 28. Record of Enumerator and Impounder. |
| 17. Dogs Which Disturb Neighborhood. | 29. Duty of Humane Officers. |
| 18. Mayor May Require Dogs to be Muzzled—When. | 30. Humane Society to Receive Part of Fees. |
| 19. Bitches Not to Run at Large—When. | 31. Taking up Animals. |
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| 22. Penalty for Failing to Register Dogs. | 34. Penalty. |

Sec. 11. Registering Dogs.—It shall be the duty of every person, owning, keeping or harboring, in this city, any dog or bitch, to register the same with the City Auditor, and to put and keep on the neck of such dog or bitch a collar of leather or metal, on which shall be engraved or marked, in plain letters, the number in figures by which it is registered in the office of said Auditor.

Sec. 12. Fees, Etc.—To enable the owner or keeper of any dog or bitch to have the same registered, such owner or keeper shall pay into the City Treasury for each dog one dollar and fifty cents, for each bitch three dollars, taking the Treasurer's receipt therefor, and, upon the presentation of such receipts to the City Auditor, said Auditor shall deliver to the owner or keeper of said dog or bitch a certificate, in writing, stating that such person has registered said dog or bitch and the manner by which it is registered, and shall also give to such person a metallic check or tag, and shall charge the City Treasurer with the amount of the fee for such certificate. On the first day of every month the City Auditor shall certify to the City Treasurer the number of dogs and bitches for which he has issued certificates and for which he has charged the City Treasurer. In case of loss a duplicate check or tag shall be issued by the City Auditor, at the expense of the person making application therefor.

Sec. 13. Effect of Registration.—Such certificates of registry shall entitle such person to keep said dog or bitch until the first day of June then next following, but no longer; and said Auditor shall keep a record giving the name and owner or keeper of such dog or bitch and the number of the certificate of registry, together with a general description of such dog or bitch.

Sec. 14. Dogs to Wear Collars With Tags.—No owner or keeper of any dog or bitch shall allow or permit such dog or bitch to be in any place in this city, at any time, without a collar, having attached thereto the check or tag hereinbefore required; nor shall any resident owner or keeper of any dog or bitch permit or allow such dog or bitch to wear any other tag or check than the identical one issued by the City Auditor for such dog or bitch. It shall be the duty of the Police to report to the Dog Enumerator and Public Impounder, the owner or keeper of any dog or bitch permitting his dog or bitch to run at large without a collar and tag as herein provided. In case of any dog or bitch running at large without said collar and tag it shall be the duty of the Dog Enumerator and Public Impounder to take up and impound said dog or bitch; and if said dog or bitch is not claimed by the owner or keeper within three days the same shall be killed by the Dog Enumerator and Public Impounder.

Sec. 15. Removal of Collars.—No person shall remove or cause to be removed the collar, check or tag from any registered dog or bitch without the consent of the owner or keeper thereof.

Sec. 16. Dangerous Dogs.—No person shall own, keep, harbor or allow to be in or upon any premises occupied by him or under his charge or control any dog of a cross, dangerous or ferocious disposition, or that may manifest a disposition to bite, without being securely chained by a chain not over six feet long, and if upon the trial for any offense mentioned in this section it shall appear to the Police Judge that said dog is still living, the Police Judge shall, in addition to the usual judgment of conviction, order the Chief of Police to forthwith put such dog to death, and for that purpose any Policeman may enter upon any private premises.

Sec. 17. Dogs Which Disturb Neighborhoods.—No person shall own, keep or harbor any dog or bitch which by loud, frequent or habitual barking, howling or yelping, shall annoy or disturb any neighborhood or person.

Sec. 18. Mayor May Require Dogs to Be Muzzled—When.—It shall be the duty of the Mayor, whenever in his opinion the danger to the public safety from rabid dogs is great and imminent, to publish his proclamation ordering and requiring all persons owning, keeping or harboring any dog or bitch to muzzle the same, or to confine the same not less than thirty days nor more than ninety days from the date of such proclamation, by good and sufficient means, to the house, stable, outhouse or yard wherein such persons may reside, and upon the issuing of such proclamation by the Mayor it shall be the duty of all persons owning, keeping or harboring any dog or bitch during the time specified in such proclamation to confine the same, by good and sufficient means, within the yard, house, stable or outhouse, or have the same properly and securely muzzled.

Sec. 19. Bitches Not to Run at Large, When.—No owner, keeper or person harboring any bitch shall permit or suffer her to run at large with this city while she is in heat, whether she have the collar, check or tag hereinbefore required on her or not, and every such bitch found running at large in violation hereof is hereby deemed and declared to be a public nuisance.

Sec. 20. What Deemed Keeping or Harboring.—Any person who shall allow any dog or bitch to habitually remain, or to be lodged or fed within his house, store, yard, enclosure or place, shall be deemed and considered as keeping and harboring the same within the meaning of this Article.

Sec. 21. Dogs of Countrymen.—The provisions of this Article shall not apply to any dog or bitch which may follow any countryman coming into or passing through the city, which shall remain near its master, owner or keeper, or his wagon, animals or other effects.

Sec. 22. Penalty for Failing to Register Dogs.—Any person failing to register every dog kept or harbored on his premises, as provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than five hundred dollars.

Charter, Art. III, Sec. 1, Cl. 25.

Sec. 23. Horses, Mules, Cows, Etc.—No hogs, horses, mules, asses, sheep, goats or cattle of any kind shall be permitted to run at large within the city, or be herded or pastured in or upon any street, boulevard, public highway, paseo, park or parkway of the city, and no animals above mentioned shall be kept or herded upon any unenclosed land within the city, unless securely tied so that the same cannot travel upon, over or across any sidewalk or in any way injure any tree, shrubbery, fence, building or structure of any person not the owner of such animal, and all such animals found running at large within the city limits or herded, or pastured or kept in violation of the provisions hereof, shall be taken up and impounded by the Dog Enumerator and Public Impounder. No person shall keep or maintain within the corporate limits of the city more than four cows upon the same or adjoining premises.

Charter, Art. III, Sec. 1, Cl. 24.

Sec. 24. Release and Sale of Animals Impounded.—Whenever any animal above named in the preceding Section is taken up under and by the authority of this ordinance it shall be the duty of the Dog Enumerator and Public Impounder to return the same to the owner thereof, upon payment to the Impounder of the following sums, to-wit: For each horse, mule, ass, cow, or other animal not specially mentioned, one dollar; and one

dollar for each hog, sheep or goat. These sums shall be in addition to the sum of twenty-five cents for each day any such animal may have been in the pound. The party claiming any such animal shall make satisfactory proof that he is entitled to the possession of the same. If any such animal remain in the pound three days without being claimed, the Dog Enumerator and Public Impounder shall proceed to advertise the same for sale by advertisement published in the newspaper at the time doing the city printing, for five successive days, giving a description of the animal, together with the time, terms and place of sale. If no owner appears at or before the time of sale to claim said animal, the Dog Enumerator and Public Impounder shall sell the same at public auction to the highest bidder for cash, and all money arising from such sale, after deducting the fees of the Dog Enumerator and Public Impounder, shall be paid into the City Treasury by the Dog Enumerator and Public Impounder, to the credit of the general fund, and any such sums, less expenses of advertising, shall on demand therefor be paid by the city to the owner of such animal. All expenses of every kind, except the cost of advertisements required by this Section (which shall be paid by the city), shall be paid by the Dog Enumerator and Public Impounder.

Charter, Art. III, Sec. 1, Cl. 24.

Sec. 25. Turning Out Animals to Be Impounded.—No person shall turn loose or cause to be turned loose from any pen or inclosure, any animal for the purpose of causing the same to be impounded.

Sec. 26. Record of Sales.—The City Clerk shall attend all sales of animals under any provision of this chapter, keep a record of such sale, a minute description of the animal sold, date of sale, price paid, and to whom sold, and shall make and certify to a copy of such record when required to do so by any city officer. To this end it shall be the duty of the Dog Enumerator and Public Impounder to notify said Clerk of the time and place of sale of any animal.

Sec. 27. Pound to Be Provided.—The Dog Enumerator and Public Impounder shall, under the direction of the Board of Public Works, provide a suitable pound, wherein he shall impound any animal found running at large contrary to any provision of this Article.

Sec. 28. Record of Enumerator and Impounder.—The Dog Enumerator and Public Impounder shall keep a record, in which he shall enter all his official transactions, the time when any animal is impounded, a minute description of the same, where found and by whom redeemed, or when sold, a record of the notice, price paid and to whom sold. Said record shall be legibly written and kept clean, and there shall be no interlineations or erasures in it. It shall be open at all times to the inspection of any person.

Sec. 29. Duty of Humane Officers.—It shall be the duty of each person holding a commission from the Police Authorities of said city as Humane Officer, to make and keep a record of all dogs, male and female, found running at large on his beat without the metallic check or tag certifying that the fees or licenses for the current year for said dogs have been paid in accordance with the provisions of this Article, and to make and keep a record of the names and addresses of all persons on his beat who own, keep or harbor such unlicensed dogs, and to notify such persons that the fees on such dogs for the current year are due and must be paid to the Treasurer of Kansas City, Missouri, in accordance with the provisions of said ordinance; and to make and give to the Dog Enumerator of said city a copy of said records, and to assist in the humane and economic enforcement of all ordinances or laws relating to dogs and other animals.

Sec. 30. Humane Society to Receive Part of Fees.—That in consideration for the services to be rendered as provided in this ordinance, the Treasurer of said Kansas City shall set apart thirty per cent of all moneys received by him as license or registration fees of dogs, both male and female, as provided in this ordinance, as a trust fund for the use of the Humane Society of Kansas City, Missouri, and said amount so set aside shall be appropriated from month to month by ordinance, directing the payment of the same for the benefit of said Humane Society of Kansas City, Missouri.

Provided, however, that should the receipts from licenses of dogs aforesaid for any one month be less than one and one-half times the receipts from said source for the same month in 1905, then in that event the amount to be paid to said Humane Society of Kansas City, Missouri, in full consideration for such services shall be a sum equal to the increase in said receipts for said month over the same month in 1905; and if the said receipts dur-

ing any month are less than the receipts during the corresponding month of 1905, then in that event the said Society shall be paid nothing for its said services during that month.

Provided further that twenty per cent of all receipts which shall come into the hands of said Humane Society shall be by it set apart and diverted to a permanent fund to be used only for the payment of necessary expenses incurred by any person for treatment in the Pasteur Hospital, or elsewhere, as a result of having been hurt or bitten within the limits of Kansas City by any mad dog running at large upon the streets, avenue, alleys or other public grounds or thoroughfares of said city. No payment out of said permanent trust fund shall be made except upon a certificate of the City Physician reciting that said treatment is necessary.

Sec. 31. Taking Up Animals.—That any person, firm or corporation taking up or causing to be taken up, any horse, mule, cow, sheep, donkey or other animal found running at large within the limits of Kansas City, shall immediately report the same, giving a description of the animal and the place where the same may be found, to the Police Department, whose duty it shall be to make a record of such reports.

Sec. 32. Penalty.—Any person who shall fail within six hours after taking up or causing to be taken up any animal specified herein to comply with the provisions of this Section, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for each offense.

Sec. 33. Duty of Police Department.—It is hereby made the duty of the Police Department to assist in the enforcement of all ordinances in relation to dogs and other animals.

Sec. 34. Penalty.—Any person violating, failing, neglecting or refusing to comply with any provision, regulation or requirement of this Article shall be deemed guilty of a misdemeanor where no penalty is especially provided, and upon conviction thereof shall be fined not less than five dollars nor more than five hundred dollars.

CHAPTER 2.

FIRES.

Article.

I. Prevention of Fires.

II. Fire Patrol and Salvage Corps.

Article.

III. Explosive Goods.

ARTICLE I.

PREVENTION OF FIRES.

Section.

35. Stove Pipes.

36. Stoves.

37. Chimney Holes.

38. Zinc Under Stoves.

39. Ashes.

40. Hay, Straw, Etc.

Section.

41. Candles and Lamps.

42. Carrying Fire.

43. Bonfires.

44. Fire Crackers, Etc.

45. Dustless Oils.

46. Smoking in Theatres, Etc.

Sec. 35. **Stove Pipes.**—No person shall put up or suffer to be kept up, the pipe of any stove, unless it be conducted into a chimney or flue built of brick or stone. No person shall use a stove pipe, in any house or building, that passes through the roof of the same, or through more than one wooden partition or floor. In case a stove pipe is used that passes through a wooded wall or floor, it shall be separated at least four inches from the woodwork by a perforated ventilator of zinc or tin, or by a soapstone ring, and the joints of the pipe shall be securely fastened together.

Charter, Art. III, Sec. 1, Cl. 20.

Sec. 36. **Stoves.**—No person shall set up or use a stove, the top or any side of which shall be within two feet of any part of the woodwork of the wall or partition of any building, without protecting such woodwork with a metallic covering, so as to prevent the same from taking fire from such stove.

Sec. 37. **Chimney Holes.**—No person shall make or keep a hole in a chimney for a stove pipe unless there be a sheet-iron or earthen thimble inserted in said chimney, imbedded in mortar, and a tin or sheet-iron stopper, with a flange at least one inch wide outside the chimney, to be used whenever the pipe is removed.

Sec. 38. Zinc Under Stoves.—No person shall use any stove in any house or building, except the same stand on zinc or other non-combustible substance of sufficient size to prevent any danger from fire.

Sec. 39. Ashes.—It shall be the duty of each owner, agent or lessee of every hotel, tenement, boarding house, lodging house, school house, opera house, theater, music hall, factory or office building, to provide a fire-proof room, bin or box for ashes in or about each of said buildings; and no occupant or tenant of any of said buildings, halls or houses shall place or cause or permit to be placed any ashes in or about any of said buildings outside of said fire-proof room, bin or box.

Charter, Art. III, Sec. 1, Cl. 20.

Sec. 40. Hay, Straw, Etc.—No person shall have, put or keep, any hay, straw, cotton, hemp or wood shavings in a stack or pile, without having the same securely covered or enclosed, so as to protect them from flying sparks of fire. Nor shall any owner, agent, lessee or occupant of any building permit, allow or cause to permit or allow any inflammable rubbish such as excelsior, shavings, straw, chips, waste paper, trash and the like, to be or remain in or about said building, unless placed in a metal-lined and metal-lidded box or bin, which shall be kept locked when not in actual use.

Sec. 41. Candles and Lamps.—No lighted candle or lamp shall be used in any stable, building or other place, where hay, straw, hemp, cotton, flax, rushes, shavings, gun powder or other combustible materials shall be stored or lodged, unless the same is well secured in a lantern.

Sec. 42. Carrying Fire.—No person shall carry fire in or through any street, alley or lot in this city, unless the same be placed in some covered pan or vessel.

Sec. 43. Bonfires.—No person shall burn any combustible matter of any kind, in the open air, in any place whatever, between the hours of six o'clock p. m., and six o'clock a. m.; provided, however, that persons may make bonfires, on proper occasions, having first obtained permission therefor, in writing, from the Chief or the Acting Chief of the Fire Department.

Sec. 44. Fire Crackers, Etc.—No person shall set off or fire off any squibs, crackers, gun powder or fireworks, in any street, alley or other public place, or in any yard, public or private, within the limits of the city, unless by a written permit from the Mayor, and such permit shall specify the object and limit the time of such firing; provided, that this Section shall not be extended to the prohibition of the usual demonstrations on the first of January, the twenty-second of February, the seventeenth of March, the fourth of July and the twenty-fifth of December.

Charter, Art. III, Sec. 1, Cl. 20.

Sec. 45. Dustless Oils.—No person shall use kerosene, benzine, gasoline, naphtha, oils known as dustless oils, or any other oil upon floors for the purpose of cleaning or laying the dust on said floors.

Sec. 46. Smoking in Theaters, Etc.—No person shall smoke, or have about his person lighted any cigar, cigarette, pipe, or stogie in any theater, public hall or place of amusement, during any performance or public meeting therein. Provided, that this Section shall not apply where a smoking room is connected with any such building and such smoking is done in such smoking room; and provided further that this Section shall not be construed to prohibit the use of a cigar, cigarette, pipe or stogie on the stage when used in an act.

ARTICLE II.

FIRE PATROL AND SALVAGE CORPS.

Section.

- 47. Creation of.
- 48. Rights of.
- 49. Apparatus—Equipment, Etc.
- 50. Duties of.

Section.

- 51. Revenue—Statements of Cost.
- 52. City Not Liable.
- 53. City to Furnish Fire Alarm Service.
- 54. Forfeiture of Rights, Etc.

Sec. 47. Creation of.—There is hereby granted to the Kansas City Insurance Agents' Association, a corporation organized under the laws of the State of Missouri, the right to maintain, operate and control a Fire Patrol and Salvage Corps co-extensive with the limits of Kansas City, and to do all things needful to the operation, maintenance and control thereof, for a period of thirty years from and after the acceptance of the terms of this ordinance by the said Association, but this franchise shall

not be transferred or assigned without the consent of the Common Council.

Charter, Art. III, Sec. 1, Cl. 38.

Sec. 48. Rights of.—The said Kansas City Insurance Agents' Associations in carrying out the purposes of this ordinance, shall have free right to run on the streets of Kansas City with its vehicles and apparatus, subject only to such regulations incident thereto as may govern the Kansas City Fire Department, and shall have free access to and the right to enter all premises and buildings threatened by fire, or where a fire may be in progress, or any building or premises contiguous thereto; provided, however, that said Association shall at all times hold Kansas City harmless from any loss or damage by reason of the acts of said Association, its agents, servants or employees.

Sec. 49. Apparatus, Equipment, Etc.—All apparatus, equipment, horses, harness, utensils and property of all kinds whatsoever, now held and owned by Kansas City, now in the possession and under the control of the Kansas City Fire Patrol, as now operated by Kansas City, shall be turned over to the said Association, and shall hereafter be held and controlled by said Kansas City Insurance Agents' Association, for the purpose of carrying out the provisions of this ordinance: provided, however, that if said Association should fail or refuse to maintain and operate said Fire Patrol and Salvage Corps for a period of five years from the date of the acceptance of this ordinance, all apparatus, equipment, horses, harness, utensils and property of all kinds held and used for the purposes of such Fire Patrol and Salvage Corps, but in no event shall Kansas City be liable to maintain said apparatus, equipment or property, or to bear any expense in connection with the operation of said Fire Patrol and Salvage Corps, and no liability shall be hereafter created or assumed by Kansas City on account thereof, save such as may be stipulated for in this ordinance, and provided further, as a condition of this grant, said Association shall maintain two companies with not less than the number of men, and two stations maintained and equipped so as to be equal in efficiency to the Fire Patrol System now in operation in Kansas City.

Sec. 50. Duties of.—It shall be the duty of said Association, upon the acceptance of the terms of this ordinance to diligently

and efficiently protect and save life and property in or contiguous to burning buildings, and to remove and take charge of such property, or any part thereof, whenever necessary, and authority is hereby granted to said Association to do all things needful to such ends not inconsistent with the charter and ordinances of Kansas City now in existence or which may change or hereafter be passed; provided, that no money shall be collected from any firm or individual or corporation for the maintenance of said Patrol, but said Association may after the extinguishment of any fire make a reasonable charge for guarding or handling property when so desired by the owner.

Sec. 51. Revenue—Statements of Cost.—All revenues derived by Kansas City by licenses paid by Fire Insurance Companies, Fire Insurance Agents and Fire Insurance Brokers on hand and unexpended, shall be appropriated for and paid over to the said Kansas City Insurance Agents' Association, for the purpose of supporting and maintaining the said Fire Patrol and Salvage Corps, and all such revenues which may hereafter be derived from such sources last above enumerated by Kansas City, shall be appropriated for and paid over to said Association for the support and maintenance of said Fire Patrol and Salvage Corps quarterly, on the first days of January, April, July and October of each year; said sums so appropriated to be expended under the direction and control of said Kansas City Insurance Agents' Association; provided, however, that said Association shall render to Kansas City and file with the City Comptroller semi-annually in January and July of each year sworn statements of the entire cost of maintenance and operation of said Fire Patrol and Salvage Corps.

Provided further, that if at any time, the amount of revenue which may be derived from licenses paid Kansas City by Fire Insurance Companies, Fire Insurance Agents and Fire Insurance Brokers shall be equal to or exceed the cost of such maintenance and operation of said Fire Patrol and Salvage Corps, then, and in that event only, such sums as may be necessary for such operation and maintenance, shall be appropriated for such purpose.

Sec. 52. City Not Liable.—In no event shall Kansas City be responsible in any wise for the debts or obligations of said Kansas City Insurance Agents' Association, contracted in the dis-

charge of the duties imposed under this ordinance, nor shall Kansas City be liable in any manner whatsoever on account of the negligence of said Association in carrying out the provisions of this ordinance.

Sec. 53. City to Furnish Fire Alarm Service.—The City of Kansas City shall supply free of all charge to said Association, all fire alarm service at the same time, and in the same manner as such service may be supplied to the Kansas City Fire Department.

Sec. 54. Forfeiture of Rights, Etc.—Upon the failure of said Kansas City Insurance Agents' Association to carry out and fulfill the obligations and duties hereby imposed upon it, all the rights hereby granted to said Association shall thereupon be forfeited. And upon the failure of said Kansas City at any time to appropriate and pay over to said Association the revenues herein agreed to be paid by Kansas City, the obligations hereby assumed by said Association may thereupon cease.

ARTICLE III.

EXPLOSIVE GOODS.

Section.

55. Storing Powder.
56. Signs.
57. Hauling Powder, Etc.
58. Same.
59. Concealing Powder.
60. Signs on Vehicles, Etc.
61. Unloading Powder at Depot, Etc.
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63. Notice to Chief of Shipments.
64. Cost of Removal Paid by Consignee.
65. Moving Powder at Night.
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Section.

68. Keeping of Gasoline, Calcium, Carbide, Napths, Etc.
69. Construction of Buildings.
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75. Carrying Oil Through City.
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Sec. 55. Storing of Powder.—Not exceeding three pounds of gun powder or gun-cotton shall be kept or stored by any person in any store, dwelling, building or other place within this city, except that retailers or venders of gun powder or gun-cotton in small quantities, may, for that purpose, keep any quantity not exceeding ten pounds, in their places of business in air-tight tin

or metal canisters, or stone jars, with good and closely fitted and well secured covers thereon, and also, provided, that dealers in powder may keep not to exceed 100 pounds in portable air-tight iron magazines, with handles, outside of their buildings.

Charter, Art. III, Sec. 1, Cl. 20.

Sec. 56. Signs.—Every retailer or vendor of gun powder or gun-cotton shall place on the building containing the same, over or at the side of the front door thereof, a sign with the words "powder for sale" or "gun-cotton for sale," as the case may be, printed or painted thereon, in letters at least three inches in height.

Sec. 57. Hauling Powder, Etc.—No person shall carry on or haul, or cause to be carried or hauled, any gun powder or gun-cotton, in any quantity in or upon any vehicle, in or through any part of this city, unless the same shall be secured in kegs, boxes or canisters, sufficiently close to prevent the grains of any portion thereof from falling out; and be laid upon and covered with a closely woven sheet of canvas or other cloth.

Charter, Art. III, Sec. 1, Cl. 20.

Sec. 58. Same.—No person having charge of any vehicle, carrying more than one keg or package of twenty-five pounds of gun powder or gun-cotton, shall have such vehicle, with the powder or cotton thereon, within the limits of this city, for a longer time than two hours, nor shall any one permit any gun powder or gun-cotton, owned by him or under his charge or control, or in his possession, to be or remain upon any street, avenue, sidewalk or alley, common or other public place, longer than one hour, except that as hereinbefore provided.

Sec. 59. Concealing Powder.—No person shall, knowingly, bring or cause to be brought within the corporate limits of this city, any quantity of gun powder or gun-cotton, concealed in a box, keg, barrel, parcel, package or other thing, marked or purporting to be other than gun powder or gun-cotton.

Sec. 60. Signs on Vehicles, Etc.—Every owner or keeper of every safe, box, keg or canister used for storing or transporting, and every owner or person in possession of any vehicle, used or employed in hauling or transferring gun powder or gun-cotton within this city, shall have and keep painted, upon two sides

thereof, the words, "powder," or "gun-cotton," as the case may be, in large letters so as to be readily seen.

Sec. 61. Unloading Powder at Depot, Etc.—No captain, mate or other officer, in charge of a steamboat or other water craft; no conductor, brakeman or other servant, agent, officer or employe of any railroad or other company or corporation, shall unload or discharge more than three hundred pounds of gunpowder or gun cotton upon the levee, or at or upon any depot or any other place in this city, without first giving notice of his intention so to do to the Chief of the Fire Department, and complying with the orders and directions of said Chief of the Fire Department as to the time, place and manner of unloading or discharging the same; nor shall any such captain, mate, conductor, brakeman, servant, agent, officer or employe, or any other person, discharge or unload gunpowder or gun cotton in any quantity, upon the levee, or at any depot, or any other place in this city, unless the owner or consignee be present to take charge of such powder or cotton and remove the same immediately, except the same be so unloaded or discharged under the order and direction of the Chief of the Fire Department as aforesaid.

Sec. 62. Removing Same by Chief of Fire Department.—Whenever gunpowder or gun cotton shall be unloaded or discharged, as contemplated in the next preceding Section, upon the levee, or at any depot, or other place in this city, it shall be the duty of the Chief of the Fire Department, unless the owner or consignee thereof appear and take immediate possession of the same, to secure such powder or gun cotton, and forthwith remove the same beyond the limits of the city to some secure place at the expense of the consignee.

Sec. 63. Notice to Chief of Shipments.—Whenever any person desires to ship or forward any gunpowder or gun cotton in quantity more than two hundred pounds, from the levee or any depot or other place in this city, he shall give notice of his intention so to do to the Chief of the Fire Department, and shall place the same on board the boat, vessel or car, on which the same is to be shipped, under the order and direction of said Chief.

Sec. 64. Cost of Removal Paid by Consignee.—After any gunpowder or gun cotton shall have been removed beyond the

limits of the city, by the Chief of the Fire Department, as provided in this Article, the consigned may have the same turned over to him, upon payment of all costs incurred on account of the removal of such powder or cotton.

Sec. 65. **Moving Powder at Night.**—No vendor or dealer in gunpowder or gun cotton shall, under any circumstances, handle or move, or cause or allow to be handled or moved, any gunpowder or gun cotton, between sunset and sunrise of any day.

Sec. 66. **Keeping Explosive Oils and Fluids.**—No person, persons or corporation shall have, keep or store, within the limits of Kansas City, any inflammable or explosive oils or fluids, to-wit: Crude or refined petroleum, kerosene, coal, earth or rock oil, gasoline, naphtha, benzine, camphene or other product compounds or adulterations of them, or either of them, or other like oils, fluids or substances excepting as hereinafter provided.

Sec. 67. **Keeping of Oils.**—Crude and refined petroleum, kerosene, coal, rock oils and other like oils, may be kept, if equal in gravity and quantity to the standard provided by law, in metallic vessels, to an extent not exceeding one hundred gallons, if in a secure place, at least five feet away from any fire, and three feet away from any burning light; or to an extent not exceeding five barrels, of not more than sixty gallons each, if in detached, secure and properly ventilated buildings approved by the Chief of the Fire Department.

Sec. 68. **Keeping of Gasoline, Calcium Carbide, Naphtha, Etc.**—No gasoline, naphtha, benzine, benzole, camphene or the products or compounds thereof, or other fluids and substances, shall be kept in this city, except that the same may be kept in any secure place, away from any fire or burning light, in quantities not exceeding twenty gallons, if kept in metallic vessels, and provided, also, the same may be kept in quantities, not exceeding five barrels, of sixty gallons each, in secure, detached and properly constructed and ventilated buildings used exclusively for such purpose and approved by the Chief of the Fire Department. No calcium carbide, shall be stored or kept in Kansas City, Missouri, except under the following conditions: Calcium carbide, in quantities not to exceed six hundred pounds, when in approved packages, holding not to exceed one hundred pounds each, must

be stored outside of insured or uninsured property, in a receptacle or inclosure, kept under lock and key, and constructed as follows:

(a) A water-proof structure or receptacle, having the bottom raised at least twelve inches above the ground and located at least ten feet from any building or,

(b) A movable magazine constructed of not less than number 18 B. & S. gauge galvanized iron, the bottom to be fastened to the sides, by one and one-half inch angle iron, the upper edge to be reinforced by band iron, the whole to be water proof and raised at least four inches above the ground and located preferably away from windows, or,

(c) A fire and water proof brick structure opening away from the building, with floor raised at least twelve inches above grade, or,

(d) In outside generator houses, if not placed over cesspools or wells, and where located at least ten feet from any other buildings.

(e) Packages to be moved, must not contain to exceed one hundred pounds, and must be made of metal, seams must be lock jointed, and soldered. The package must be provided with a screw top or its equivalent, must be water tight, of sufficient strength to insure handling without rupture, must be wood or iron jacketed and conspicuously marked "calcium carbide."

Where the calcium carbide is stored in excess of six hundred pounds, it must be stored above grade, and in a building used exclusively for that purpose. Building must be thoroughly dry, water-proof, well ventilated, without artificial light or heat, and located as follows: Brick or stone fire-proof buildings, must be located at least twenty-five feet from any other building.

Calcium carbide in approved metal cans, holding not exceeding two pounds each, may be permitted inside buildings when contained in an enclosed magazine, or holder, constructed in accordance with the following specifications:

(a) Must be of galvanized iron not less than eighteen American gauge and must have all seams lapped, riveted and soldered, both inside and out, so as to protect edges and rivets from rust, and form thoroughly water tight joints.

(b) Must be constructed so that the bottom will be raised at least six inches from the floor by means of ventilated rims. These rims to be reinforced where they come in contact with the floor by heavy iron bands, and flared so that they will be at least six inches larger at the base than at the top.

(c) Must be closed at the top, having cover to form a water tight joint by means of a single clamp, and all removable parts must be attached to the holder proper by means of chains or other approved metal. Must be so proportioned in its dimensions that not more than a hundred pounds of carbide, in metal cans not exceeding two pounds each can be placed in any one holder.

(e) Must be kept above the grade of the street and plainly marked in letters at least two inches high, "calcium carbide, keep dry." The cover must be marked, "keep closed."

(f) Cans containing not exceeding two pounds each must be made of metal, joints not to rely on solder and cans to be thoroughly washed out.

Large warehouses, located and constructed according to the provisions of this Article must be located and constructed with the approval, and under the supervision of a board consisting of the Superintendent of Buildings, the City Engineer and the Chief of the Fire Department.

Charter, Art. III, Sec. 1, Cl. 20.

Sec. 69. Construction of Buildings.—The building referred to in the two preceding Sections of this Article must be at least twenty feet distant from any other buildings; shall be constructed of stone, brick or iron, with outer walls of not less than one foot in thickness; the ground floor thereof shall be stone, brick or iron, or concrete; shall be at least three feet below the grade of the street nearest thereto; and be so arranged, constructed and guarded, that the oils, fluids, or contents of barrels or tanks, therein kept or stored, cannot run out or flow upon the adjoining premises; such buildings shall not be connected with any public or private drain or sewer, and shall be approved by the Chief of the Fire Department and the Superintendent of Buildings.

Sec. 70. Labeling Gasoline.—No person, firm or corporation shall sell, exchange or deliver within the limits of Kansas City, Missouri, any gasoline without securely attaching to the can or vessel in which the same is placed a tag or label on which the word, "gasoline" shall be printed or stamped in plain and legible letters. Any person, firm or corporation violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in a sum not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00.)

Sec. 71. Keeping Oils in Public Places.—No person shall keep, store, leave or place, or cause or allow to be stored, kept, left or placed, any crude petroleum, gasoline, naphtha, benzene, carbon oil, camphene, spirit-gas, burning fluid or spirits of turpentine, beside or near to any building, or upon any street, avenue, alley, sidewalk, wharf, lot or public place, for a longer time than is sufficient to receive it in store or deliver the same for shipment; provided, that such time shall not exceed four hours.

Sec. 72. Oils at Depots, Etc.—All articles, mentioned in the five preceding Sections, shall be removed from the respective railroad depots and from the levee, within twenty-four hours from the time the same are received at the depot or landed at the levee.

Sec. 73. Signs.—Any person or corporation, keeping or storing, in any building whatever, any of the articles mentioned in the six preceding Sections, shall place and keep constantly posted, on the outside of such building, in a conspicuous place, a sign, with the words, "explosive oil," printed or painted thereon, in letters at least four inches in height.

Sec. 74. Chief of Fire Department's Duty.—It shall be the special duty of the Chief of the Fire Department, to visit and carefully inspect all buildings, where any article mentioned in this Chapter, shall be kept or stored, and report to the City Attorney, for immediate prosecution, any violation, failure, neglect or refusal to comply with any provision, regulation or requirement of this Chapter; and no person shall hinder, obstruct or refuse permission to such Chief of the Fire Department or his subordinate, to enter and inspect any such building. It shall also be the special duty of all officers and members of the Police Department to see that every provision, regulation and requirement of this Chapter is rigidly enforced.

Sec. 75. Carrying Oil Through City.—This Article shall not be construed to prevent the carrying and transportation through, by or past Kansas City, of the oils, fluids and substances, hereinbefore mentioned.

Sec. 76. Offense Each Twenty-four Hours.—Any person violating, failing, neglecting or refusing to comply with any pro-

vision, regulation or requirement of this Article, shall be deemed guilty of a separate offense every twenty-four hours that such violation, failure, neglect or refusal shall continue, for which he may be arrested, tried, convicted and punished, as in the first instance.

Sec. 77. Storage of Fireworks.—The storage of fireworks in any quantity, is, by this Article, prohibited, except the same be stored in a brick building, not more than one story in height, with gravel, tin or slate roof, and having iron doors and shutters; and such building shall not be nearer any other building than one hundred feet.

Charter, Art. III, Sec. 1, Cl. 20.

Sec. 78. Consent of Property Owners.—Before any fireworks shall be stored in any building, as provided in the preceding Section, the written consent of the property owners, owning a majority of the front feet in the block where it is proposed to store fireworks, shall be first obtained and filed with the Chief of the Fire Department.

As to validity of this section, see *St. Louis vs Russell*, 116 Mo., 248; *St. Louis vs. Howard*, 119 Mo., 41. City may require permission by Ordinance. *St. Louis vs Fischer*, 167 Mo., 654, 1. c., 194 U. S., 361.

Sec. 79. Signs.—On any building where any fireworks shall be stored, as herein provided, there shall be put the letters not less than five inches high or three inches wide, the word, "fireworks."

Sec. 80. Dealers.—The provision of this Article shall be construed so as to allow dealers in fireworks to keep in stock sufficient goods to carry on their business.

Sec. 81. Penalty.—Any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor, and on conviction thereof punished by a fine of not less than twenty dollars nor more than two hundred and fifty dollars, where no other penalty is specially provided.

CHAPTER 3.

GAS AND ELECTRICITY.

Article.

- I. Gas.
- II. Electricity.

Article.

- III. Supervisor of Lights.

ARTICLE I.

GAS.

Section.

- 82. Gas Inspector.
- 83. Qualifications.
- 84. Salary and Bond.
- 85. Inspector's Office.
- 86. Inspection of Candle Power and Pressure of Gas.
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Section.

- 90. Examination of City Gas Meters.
- 91. Reading of City Gas Meters.
- 92. Quality of Gas—Duty of Inspector—Penalty.
- 93. Furnishing of Appliances and Instruments.
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- 95. Pressure of Gas—Installation of Gas Governor.
- 96. Location of Pipes.

Sec. 82. **Gas Inspector.**—For the purpose of enforcing the ordinances of this city relating to the manufacture and selling of gas and securing the candle power and quality of gas therein required, and the correct measurement of the same, there shall be appointed by the Mayor, by and with the consent of the Upper House of the Common Council, in the same manner as other city officers are appointed, a Gas Inspector, who shall hold his office for the period of two years, and until his successor is appointed and qualified.

Sec. 83. **Qualifications.**—The inspector shall be a person qualified to determine the candle power and quality of illuminating gas and to test the accuracy of gas meters and shall not in any way, directly or indirectly, be interested pecuniarily in the manufacture or sale of gas, of meters or of any article or commodity used by gas companies, or used for any purpose connected with the consumption of gas.

Sec. 84. Salary and Bond.—The salary of the Inspector shall be one hundred and fifty dollars per month, to be paid in the same manner as other city officers. He shall give bond to the city to be approved by the City Comptroller, in the sum of two thousand (\$2,000) dollars for the faithful performance of his official duties. He may appoint, with the consent of the Mayor, three Assistant Inspectors, to properly attend to the duties of the office, whose salaries shall be prescribed by ordinance to be paid in the same manner as other city employees.

Sec. 85. Inspector's Office.—The Inspector shall have his office in the City Hall, and the Board of Public Works shall, at the expense of said gas company or gas companies, provide him with suitable apparatus for testing the accuracy of gas meters and candle power and quality of gas, including one ten-cubic-foot meter prover, with necessary gauges, connections and meter outlets, and one 100-inch bar photometer, complete with double candle balance pressure gauge and test meter.

Sec. 86. Inspection of Candle Power and Pressure of Gas.—It shall be the duty of the Inspector to examine daily, except Sunday, and at or about the hour of the greatest consumption of gas, the candle power, and as often as he may deem advisable, the quality of the illuminating gas furnished the city or its inhabitants, and whenever the candle power thereof shall upon three days in any calendar month, be less than required by ordinance, or if the gas furnished shall not be a good commercial gas, to report the same in writing to the Common Council at its next meeting.

It shall be the duty of the Gas Inspector to examine the candle power and pressure of the gas supplied to consumers at any and all parts of the city at his discretion. Said Inspector shall have for the purpose of making the test and inspection herein stated, all reasonable access, during proper hours, to any place or building in Kansas City, Missouri, where gas is consumed. Said gas company or corporation shall so adjust its mains for the distribution of gas, so the minimum pressure shall not be less than one and one-half inches water pressure or the maximum pressure more than four inches of water pressure. In case it should exceed four inches of water pressure, said company or corporation shall place, at the request of the Inspector, a suitable gas

governor free of charge to the consumer for the purpose of controlling said pressure. Should the pressure exceed three inches water pressure at any place, the gas company shall on receipt of notice to this effect from the Gas Inspector, furnish and put in place check burners on the fixtures of such consumers free of charge. Should the gas company or corporation fail to comply with the requirements of this Section, or should the Inspector find the service furnished the consumer insufficient to comply with the requirements of this Article, he shall at once notify said gas company or corporation, and should they refuse or fail to properly remedy the difficulty for the space of twenty-four hours, said gas company or corporation shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every such offense.

The Gas Inspector shall place and maintain at, at least five different points to be selected by him in the City of Kansas City, Missouri, a Bristol Recording Gauge, and shall take records of same daily for the purpose of keeping record of pressure at all hours, day and night.

The Gas Inspector shall place and maintain in each district in Kansas City, Missouri, where said person, firm, company or corporation shall maintain a pressure reducing station, at the point farthest removed from the high line, or high pressure distributing main, being the main line of pipe in said district, where natural gas is supplied to a consumer, a Bristol Recording Pressure Gauge, and shall take records of same daily for the purpose of keeping a record of pressure at all hours, day and night. The Gas Inspector shall, whenever there shall be complaint of inadequate gas pressure at any point in Kansas City, Missouri, attach a portable Bristol Recording Pressure Gauge at said point, and take a record of the pressure at said point for a period of at least twenty-four hours.

Charter, Art. III, Sec. 1, Cl. 10.

Sec. 87. Inspection of Meters.—It shall be the duty of the Inspector to examine and test the accuracy of all new meters and all meters disconnected for repairs before the same shall be connected for use in the city and when he finds the same to be correct, to seal the same with some suitable seal or stamp and mark thereon the date of his examination. No meter shall be accounted correct which shall run irregularly or which registers an amount more than two per cent greater or less than the amount actually

passing through it; but the Inspector may seal meters registering more than two per cent against the gas company or vendor of gas when requested by the company or vendor. After notice from the Inspector that he is prepared to examine and test meters, no person, company or corporation shall thereafter use or furnish for measuring the quantity of gas supplied to the city or private consumers any meter not then in actual use unless the same has been examined and tested and sealed as correct by said Inspector. Said gas company or corporation shall daily furnish to the Gas Inspector a correct record of all meters placed for use the preceding day, giving the size and number of meter, inspection number and location of same, this information shall not be furnished by said Gas Inspector to any person or persons except to city officials and the Kansas City, Missouri, Gas Company.

Every gas company, corporation or vendor of gas within this city who shall furnish or use any meter contrary to or in violation of the provisions of this Article shall on conviction thereof be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

Upon the application of any consumer of gas for a test of the meter through which gas is supplied to him, he shall deposit with said Inspector the sum of one dollar, and take a receipt therefor; then the Inspector shall notify the person, company or corporation owning said meter that it may be disconnected and removed to the office of the Inspector on or before five o'clock p. m. the following day and shall at once place in its stead another meter bearing the seal of the Inspector. Should the Inspector desire to be present in person or represented by his Assistant at the disconnecting of said meter, he shall fix a convenient hour between eight o'clock a. m. and twelve o'clock noon of the same day succeeding the receiving of said notice. Then a representative of the gas company or corporation shall meet him with a tested meter to put in place of the one to be removed. Should the Inspector find any meter correct, the Inspector shall pay the one dollar so deposited by the consumer to the gas company or corporation and take a receipt therefor; but should the meter be found to be incorrect, the Inspector shall return said money to the consumer and furnish the gas company or corporation and the consumer a certificate of the inspection. It shall be the duty of the Inspector to test and seal or return to the owner as incorrect any meter so removed upon application of a consumer within three hours of its receipt at his office.

Sec. 88. Defacement, Alteration or Removal of Cards and Stamps—Penalty.—It shall be unlawful for any person other than the Inspector or his deputies to deface, alter or remove any card or stamp so placed by the Inspector upon any meter or to place upon any meter a certificate purporting to be the certificate of the said Inspector, and should the gas company or corporation fail to comply with the requirements of this Section they shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

Sec. 89. Shutting Off Gas.—It shall be unlawful for any gas company or corporation to shut off the gas from any consumer pending the investigation or testing of the meter when a dispute shall arise in regard to the correctness of a bill. The company or corporation shall adjust said bill as shown by the meter test of the Inspector back for a space of three months or during the times said meter was in use not exceeding three months. It shall be unlawful for any gas company or corporation to shut off or refuse to furnish gas to any consumer on a street or streets where they have mains so long as the consumer shall comply with all lawful requirements, provided said consumer shall apply for a test of his meter within five days after his gas bill is rendered, and the Gas Inspector shall inspect said meter within five days thereafter and nothing herein shall be construed as prohibiting such gas company from shutting off the gas when the consumer is in arrears in the payment of any gas bill for fifteen days.

Sec. 90. Examination of City Gas Meters.—It shall be the duty of the Gas Inspector as often as once in three months to carefully examine each of the gas meters used for measuring gas for the City of Kansas City; and it shall be the duty of said Inspector to examine and test as often as may be necessary the burners of the street lamps of the city and to require that said burners be kept clean and open so as to give an even steady light and to be capable when lighted of actually burning fully four cubic feet of gas per hour. It shall be the duty of the gas company to provide the Inspector with a perfect schedule of the location of all gas lamps of the city, designating those in use and those not in use.

Whenever it shall come to the knowledge of the Gas Inspector that any street lamps are out of repair or that the glass in any

lamp is not clear and clean or is broken, it shall be his duty to at once notify the person or company, contracting with the city, forthwith to make necessary repairs.

For the purpose of enforcing the provisions of the foregoing Section it is hereby ordered that the police on their beats shall be provided with a copy of this Section and proper blanks for making reports and are hereby required to make reports to the Gas Inspector of all violations of this Section within twenty-four hours next succeeding the gathering of such information.

Sec. 91. Reading of City Gas Meters.—The Gas Inspector shall, on the first of each month, take a reading of all gas meters used for measuring gas furnished the city and of the condition of said meters, and shall report the same to the City Auditing Committee.

Sec. 92. Quality of Gas—Duty of Inspector—Penalty.—No person, company or corporation supplying illuminating or fuel gas to the city or private consumers in the city shall supply or sell any illuminating gas, five feet of which shall not be capable of producing a light equal in intensity to that produced by twenty-two standard Sperm candles, consuming at the rate of 120 grains per hour, each twenty-two candle power at a pressure not exceeding eleven-tenths inches at the photometric burner, and suitable for illuminating and heating purposes. It shall be the duty of the Inspector to examine daily except Sunday, and at or about the hour of the greatest consumption the candle power, and as often as he may deem advisable, the quality of the illuminating and fuel gas furnished the city or its inhabitants, and whenever the candle power of the illuminating gas thereof shall upon any three days in any calendar month, be less than that specified in this Section of this Article, or if the gas furnished shall not be a good commercial gas, to report the same, in writing, to the Common Council at the next meeting. If at any time the Inspector shall find the gas supplied by any company, corporation or other vendor of gas tested, as provided for in this Section, to be below twenty-two candle power, it shall be his duty to at once notify the company, corporation or other vendor supplying the same; and if the candle power of the gas of any corporation, company or other vendor shall be found lower than twenty-two candle power on three separate days in any calendar month, the said company, corporation or other vendor shall pay to the City Treasurer the sum of one

hundred dollars, to be recovered in a civil action, and shall be guilty of a misdemeanor and on conviction shall be fined not more than one hundred dollars; provided, that if the average illuminating power of the gas is above twenty-two candle power during the calendar month on which the illuminating power was found to be below twenty-two candle power for three separate days, then no fine shall be imposed. The Inspector shall keep books in his office in which he shall record the number of each meter tested and sealed by him, and the date when, and the person for whom it was tested and sealed, and of all the proceedings of his office, which record shall be, at all times, open to public inspection. He shall make annual reports of the number of meters sealed by him, and for whom sealed, and of all matters pertaining to his office. Any person, company or corporation, supplying gas to the city, or its inhabitants may at his or its option, be present in person or by representative, at any and all tests made of the gas or meters, supplied or used by said person, company or corporation. In case any gas company or corporation shall after receiving notice of the tests made by the Inspector of gas willfully continue to manufacture and distribute through its mains within the City of Kansas City, gas different from that prescribed by the terms of this ordinance, or shall willfully refuse to comply with an provision of this ordinance or the franchise of said company, or the spirit thereof, said company, corporation and the managing officers and agents thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and each day said company or corporation shall so willfully violate the provisions of this Section shall be deemed a separate offense and punishable as such.

Charter, Art. III, Sec. 1, Cl. 10.

Sec. 93. Furnishing of Appliances and Instruments.—The Board of Public Works, shall, at the expense of the person, firm, company or corporation supplying natural gas to the city and its inhabitants, provide the Gas Inspector with all suitable appliances or instruments that may be necessary for the discharge of his official duties as contemplated by this ordinance.

Sec. 94. Expenses of Office—By Whom Paid.—Every person, company or corporation supplying gas to the city or its inhabitants, shall on or before the tenth of each month pay to

the City Treasurer such sum of money as the city may have paid for expenses and maintenance of the office of Inspector, including the salaries of such Inspectors, and the cost of equipping and maintaining said office, as the City Auditing Committee, through the City Auditor, shall direct. A failure to comply with said requirements shall constitute a misdemeanor in each and every case, and on conviction be subject to a fine of not less than two hundred and fifty dollars, or more than five hundred dollars, to be collected by civil action in any court of competent jurisdiction.

Sec. 95. Pressure of Gas—Installation of Gas Governor.—Every person, firm, company or corporation supplying natural gas to the city or its inhabitants shall so control its source of supply and adjust its mains for the distribution of natural gas that the minimum pressure of said gas at any point in this city where natural gas is supplied for consumption shall not be less than five (5) inches water pressure, for a period of twenty-four consecutive hours, and if the pressure shall at any time exceed thirteen (13) inches of water pressure at any place for a period of twenty-four consecutive hours, said person, firm, company or corporation so furnishing said natural gas shall install, at the request of the Inspector, a suitable gas governor, free of charge to the consumer, for the purpose of regulating said pressure.

Sec. 96. Location of Pipes.—All gas mains or pipes hereafter put down in this city shall be laid on the north and east sides of streets and avenues.

Charter, Art. III, Sec. 1, Cl. 10.

ARTICLE II.

ELECTRICITY.

| Section. | Section. |
|--|--|
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| 98. Qualifications. | 120. Appointment—Term of Office—Salary—How Paid — Qualifications. |
| 99. Bond. | 121. Accuracy of Meters. |
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| 106. Electrician's License — Issued Under What Conditions—Fee. | 128. Overcharge—Refund by Company—Penalty. |
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| 113. Duty of Those Operating Electrical Plants—Poles, Wires and Conductors to be Marked. | 135. Penalty. |
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Sec. 97. City Electrician—Appointment—Term of Office—Removal.—There is hereby created the office of City Electrician. Said Electrician shall be appointed by the Mayor, by and with the advice and consent of the Upper House of the Common Council, and he shall hold his office for the term of two (2) years and until his successor is appointed and qualified; provided, however, that for good and sufficient cause he may be at any time removed from said office by the Mayor.

Sec. 98. Qualifications.—The City Electrician shall be an expert in the theory and practice of the installation of electrical wires, apparatus and appliances, and he shall have prior to his ap-

pointment not less than five (5) years practical experience in such work.

Sec. 99. Bond.—The City Electrician shall give bond to the city in the penal sum of five thousand dollars (\$5,000.00), with two or more sufficient sureties, to be approved by the City Comptroller, conditioned upon the faithful, skillful and impartial performance of the duties of his office.

Sec. 100. Duties.—It shall be the duty of the City Electrician to thoroughly inspect and examine all the electrical apparatus and devices constructed within any building of the city or upon any public street or highway thereof, and he shall condemn all such that in his opinion may be dangerous or improperly installed; provided, however, that if any person, firm or corporation shall deem that he, they or it is aggrieved by any condemnation of the City Electrician, he, they or it shall have the right to appeal from the decision of the City Electrician to a board composed of the Chief of the Fire Department, Superintendent of Buildings and the City Fire Warden, who shall hear the matter, and whose decision shall be final and binding.

It shall also be the duty of the City Electrician to make test wherever in his judgment it may be necessary to ascertain whether electric lights are below the candle power required by ordinance, or where any electric light is below the candle power charged by the company furnishing the same. Wherever upon said test and inspection the City Electrician shall find the lights are inadequate under said test, he shall report in writing the same to the Mayor of the city, giving specific location, the time of test and the result thereof.

It shall also be the duty of the City Electrician to take all necessary measures and steps looking to the enforcement of all ordinances of the city pertaining to the inspection, installation or condemnation of electrical wires and apparatus.

It shall also be the duty of the City Electrician to receive from accredited insurance men any suggestion they may make in regard to any improvement in the installation of electrical apparatus, and immediately upon receipt thereof to report the same to the Mayor and to the Common Council for such action as they may deem advisable.

Sec. 101. Electrical Connections—Permit—Inspection.—No person, firm or corporation shall make connection causing any electrical appliance, apparatus or wires to become charged with electricity, either in buildings or outside of buildings until a service permit shall have been procured from the City Electrician to make said connection, to turn on the electric current, and the same shall have been delivered to said person, firm or corporation. No such permit shall, however, be granted for lighting, heating or power purposes in the city until said City Electrician shall have inspected and approved the electrical apparatus or wires and wiring used in connection therewith.

Charter, Art. III, Sec. 1, Cl. 10.

Sec. 102. Deputies—Qualifications of—Bonds of.—The City Electrician, by and with the consent of the Mayor, shall appoint two (2) deputies and one (1) clerk to assist him in the performance of the duties of his office. Each deputy shall have practical experience in the installation of electrical wires and apparatus, and he shall perform such work as may be assigned to him by the City Electrician. Before entering upon his duties, each deputy shall file with the City Comptroller a bond in the sum of three thousand dollars (\$3,000.00), with two or more securities, to be approved by the City Comptroller, conditioned that he will faithfully perform his duties as deputy city electrician.

Sec. 103. Salary of City Electrician and Employees.—The City Electrician shall receive a salary of one thousand eight hundred dollars (\$1,800.00) per year, each deputy shall receive a salary of one thousand and eighty dollars (\$1,080.00) per year, and the clerk shall receive a salary of seven hundred and twenty dollars (\$720.00) per year; said salaries to be paid in the same manner and at the same time as other officers and employees of the city.

Sec. 104. Installation of Wires and Apparatus.—All electrical wires or apparatus shall be installed and maintained in accordance with the rules and requirements of the "National Electric Code," except when otherwise provided by ordinance. No person shall place any wood or other inflammable material within one (1) inch of any electrical conductor, except where each wire is encased in approved porcelain or flexible tubing. No pipes or other metal substance shall be placed within two (2) inches of

any electrical wires, except such pipes are approved conduits, and used to contain electrical wires. Concealed knob and tube wiring is hereby prohibited in a district bounded by Broadway on the west, by Holmes street on the east, by Eighteenth street on the south and by the Missouri river on the north.

Charter, Art. III, Sec. 1, Cl. 10.

Sec. 105. Permits For Construction—Fees.—Every person, firm or corporation before entering upon the construction, erection, alteration or change of any electrical apparatus or wires or wiring shall secure from the City Electrician a construction permit therefor. Said permit shall describe in detail by street and number, the proposed location of same, and the plan of construction, material and apparatus to be used in the same. Before such construction shall be issued by the City Electrician it must be countersigned by the City Comptroller and a fee paid to the City Treasurer by the person obtaining the same. Fees shall be paid for such permits at the following rates:

Incandescent lamps of 16 candle power and for larger or smaller incandescent lamps in proportion as follows:

For each incandescent lamp three cents.

Arc Lamps.—For each of the first five arc lamps twenty-five cents, for each additional arc lamp, fifteen cents.

Motors and Dynamos.—For each horse-power of motors and dynamos, up to and including five horse-power, twenty-five cents; for each additional horse-power of motors and dynamos, fifteen cents.

The minimum fee for each permit to be not less than fifty cents.

All branch circuits shall be considered as wired for not less than ten 16-candle power lights, and shall be charged accordingly.

Charter, Art. III, Sec. 1, Cl. 10.

Sec. 106. Electrician's License—Issued Under What Conditions—Fee.—The City Electrician shall issue no construction permit for proposed work, nor grant any service permit therefor to any person, firm or corporation engaged in the business of electrical construction until he, they or it shall have first procured a license to be known as an "Electrician's License" from the City Auditor, allowing him, them or it to engage in such occupation, and no person, firm or corporation shall receive such license unless he, they or it shall have an established place of business, and shall have satisfied the City Electrician that he, they or it is

competent to do electrical construction work and install electrical wires and apparatus. The annual fee for such license as herein required, shall be twenty-five dollars (\$25.00), to be paid at the same time and the license shall be issued in the same manner as in the case of other licenses.

Sec. 107. **Bond of Electrician.**—The City Auditor shall issue no license until the applicant shall have first filed a bond, with two or more sufficient sureties, with the City Comptroller, in the sum of five thousand dollars (\$5,000.00), conditioned that the principal in such bond will install electrical wires and apparatus, under the supervision of the City Electrician, and in accordance with the said rules and requirements of the "National Electrical Code," and the ordinance of Kansas City, and conditioned that said principal shall pay any and all fines imposed on such principal by the Municipal Court of Kansas City, for the violation of any of the provisions of this article, and said bond shall be further conditioned to save and to hold the city harmless from all loss, liability, cost and expense caused by said wires.

Sec. 108. **Electric Wires to be Disconnected in Time of Fire.**—Every person, firm or corporation owning or controlling electrical wires or apparatus for the transmission of light, heat or power, shall, in time of fire, upon the request of the Mayor, Chief of Fire Department, or any official in said Fire Department, or the City Electrician or deputies, disconnect such wires as may be designated by the said official.

Sec. 109. **City Electrician to Keep Record.**—The City Electrician shall make and keep a record of all such permits, condemnations and inspections herein mentioned, giving location, date, name of person installing wires or apparatus, for whom installed, and a general description of the work; and when this article shall have been strictly complied with, he shall make and deliver to any person requiring such inspection a certificate of inspection, giving date, location, name of party installing wires and apparatus, for whom installed.

Sec. 110. **City Electrician to Decide.**—The City Electrician shall decide all questions not provided for in this Article, pertaining to the installation of electrical wires and apparatus.

Sec. 111. Penalty.—Any person who shall fail or refuse to allow inspections, or who violates or fails to comply with any provisions of this Article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars (\$5.00) and not more than five hundred dollars (\$500.00), and each day such violation shall continue shall be a separate offense. But this shall not be the exclusive remedy of the city to enforce this Article.

Sec. 112. Inspection of Electric Wires and Apparatus.—The City Electrician is hereby authorized and directed to inspect all premises on which electrical wires are now, as well as where apparatus for transforming energy of any kind into electrical energy, or the reverse, are located, or premises where conductors for the transmission of electricity are placed, for the purpose of ascertaining their condition and management, and for the further purpose of taking steps to enforce all the provisions of this Article. It shall be the duty of every person, or persons, corporation or association, operating or controlling a plant for the production of electricity, or occupying premises on which electrical apparatus or conductors may be placed, to admit the City Electrician or his duly authorized inspectors, and assist in making an examination of said premises.

Sec. 113. Duty of Those Operating Electrical Plants—Poles, Wires and Conductors to be Marked.—It shall be the duty of every person or corporation operating a plant for the production or consumption of electrical energy, or maintaining conductors for its transmission, to employ competent men, whose names shall be furnished the City Electrician, and recorded in his office, as their authorized agent or agents, one to be in charge of the same at all times while in operation, and one shall promptly execute all orders issued by the Mayor, the City Electrician or the Chief of the Fire Department, which may, in their opinion, prevent accident or injury to life or property; and to keep their poles, wires and conductors that pass over any street, alley, or public place, or over or through any building, so marked that the owner of the same may be determined by the City Electrician, and a record of all marks kept in his office, and should the marks become illegible, the wires or conductors shall be deemed abandoned, and it shall be the duty of the City Electrician to remove the same.

Sec. 114. Cut-outs to Be Provided.—It shall be the duty of every person or corporation, supplying or using electricity or maintaining conductors for the same, to provide cut-outs and such other devices as may be necessary to cut off all electrical communications, of any part of said conductors, from the source of energy, automatically, when the current exceeds a fraction of the capacity of the conductor protected, said fraction to be determined by the City Electrician.

Sec. 115. Most Approved Device—To Be Approved by City Electrician.—It shall be the duty of every person or corporation operating or maintaining conductors for electricity, to provide the most approved device to make it an easy task for the servants of the city, or of said person or corporation, to disconnect the conductor or any part of it from the source of energy by simple operation of a handle or pulling a cord; rendering the conductor so disconnected free from any electrical pressure, tending to produce a flow of electricity from one part to another, or from it to the ground, said device to be placed at or near the point where conductors enter building. All such devices to be subject to the approval of the City Electrician.

Sec. 116. Wires, Apparatus, Etc.—Deemed Dangerous, When.—Any wire, cable, conductor, or any machine, lamp or apparatus, through which an electric current may pass, or the influence of electricity may be manifested by its various phenomena, shall be deemed dangerous, when any of the manifestations tend to delay or intimidate the Fire Department, or through accident their insulation be impaired, or their capacity be overtaxed, or through carelessness, or otherwise, they come in contact with any of the wires or electrical apparatus used in giving an alarm to the fire or police department, injuring or impairing the proper working of the same.

Sec. 117. Space Between Wires and Conductors.—It shall be the duty of every lineman or person employed to inspect, repair or erect wires or conductors used for the purpose of transmitting electrical energy in the city, to take every precaution possible, that the space between the wires or conductors erected by them and all other wires and electrical apparatus shall be sufficient to prevent accidental contact between them in the severest storm,

or report the fact that such is impracticable, at the office of the City Electrician.

Sec. 118. Dead Wire, Notice—Nuisance—Menace to Life or Property.—Notice shall be served in writing directed to the person or persons, corporation or association operating or owning plant, and five days shall be allowed for removal of any or all uncared for or dead wires, described therein, before the City Electrician, or any of the authorized inspectors of the City Lighting Department remove the same, unless the said dead or uncared for wires are at that time a nuisance and an obstruction to a public place or highway, or a menace to life or property.

Sec. 119. Electric Meter Inspector—Duties.—That the office of City Electric Meter Inspector be created, the office being created for the purpose of having a city official who shall, upon complaint of any citizen who may believe his electric meter is inaccurate, said meter having been installed by the Kansas City Electric Light Company, for the purpose of measuring the current delivered to said citizen, the inspector shall, upon the request of said consumer, promptly see to the accurate testing of said meter. to determine its accuracy or inaccuracy, and said inspector shall act as judge and arbitrator, as hereinafter specified.

Sec. 120. Appointment—Term of Office—Salary—How Paid—Qualifications.—That the said inspector shall be appointed by the Mayor and confirmed by the Upper House, for a period ending with the beginning of the fiscal year of 1910, and until his successor is appointed and qualified, at a salary of \$1,800 per year, which amount shall be paid to the City of Kansas City, by the Kansas City Electric Light Company, in quarterly payments of \$450 each. Said salary to commence on and after the passage and approval of this ordinance, and said appointment, as aforesaid. That the party so appointed shall be thoroughly familiar with electric meters and the method of testing same.

Sec. 121. Accuracy of Meters.—That any meter that is not in excess of three per cent fast or three per cent slow, on an average load, be considered commercially accurate.

Sec. 122. Testing Instruments Furnished by Whom.—That the Kansas City Electric Light Company shall furnish the neces-

sary standard instruments for making the required tests on the various meters installed on its lines.

Sec. 123. Application For Test—Conditions—Notice.—That upon the application of a consumer of electricity to the City Inspector for a test of the meter through which electricity is supplied to him from the lines of the Kansas City Electric Light Company, the said consumer shall deposit with the inspector the sum of one dollar, and take a receipt therefor. That the inspector shall notify the Kansas City Electric Light Company, owning said meter, of said complaint and indicate when a test of the said meter, shall be made, and said inspector shall be present at the test, check all readings, and check at any time the accuracy of the testing instruments. In case the Kansas City Electric Light Company find any meter, the condition of which should be brought to the notice of the Inspector, upon application of the electric light company to the City Inspector for a test and examination of said meter, said test and examination shall be so made, the inspector to notify the light company as to time, test and examination shall be made.

Sec. 124. Access to Instruments and Records of Light Company.—The City Inspector shall have access, at all reasonable hours, to the laboratory and standardizing instruments of the Kansas City Electric Light Company, for the purpose of accurately checking and testing the accuracy of the instruments used in testing meters of the various consumers on the lines of the Kansas City Electric Light Company, and shall further have access to all records pertaining to any adjustment between the light company and any consumer, ordered by the Inspector.

Sec. 125. Inaccurate Meter—Duty of Electric Light Company—Duty of Inspector.—Upon completion of any test, if the meter is found to be over 3 per cent fast, said inspector shall order said meter removed and a new meter put in its place, or the meter just tested shall be recalibrated then and there and left operating accurately and approved by the Inspector. The said Inspector shall further notify both the company and consumer as to the percentage the meter was fast, and the company shall, within fifteen days, refund to the consumer an amount equal to said percentage on the bills the consumer has paid for light or power from the date

said meter was removed or recalibrated back to two preceding months' regular readings, this period not to exceed ninety days or to be less than sixty days. In case the meter tested has not been installed for over ninety days, the period for adjustment shall date from the day said meter was set. This amount shall be paid by the company to the consumer at the address given by the consumer on his contract with the company, and the one dollar sent to the city by the consumer shall be refunded by the Inspector to the consumer.

Sec. 126. Inaccurate Meter—Duty of Consumer—Duty of Inspector.—If the meter is found to be over three per cent slow, said inspector shall order said meter removed and a new meter put in its place, or the meter just tested shall be recalibrated then and there and left operating accurately and approved by the Inspector. The said inspector shall further notify both the company and the consumer as to the percentage the meter was slow, and the consumer shall, within fifteen days, pay to the company an amount equal to said percentage on the bills the consumer has paid for light or power from the date said meter was removed or recalibrated back to two preceding months' regular reading, this period not to exceed ninety days, or to be less than sixty days. In case the meter tested has not been installed for over ninety days, the period for adjustment shall date from the day said meter was set. This amount shall be paid by the consumer to the company, at the office of the company.

Sec. 127. Card or Sticker to be Attached to Meter.—Upon completion of such tests, the Inspector shall attach to the meter inspected, a card or sticker, showing the day such meter was tested and the condition of such meter, when left by the Inspector.

Sec. 128. Overcharge—Refund by Company—Penalty.—In case the meter is found to be in excess of three per cent fast, and the amount due the consumer from the company (as provided for in Section 125), is not paid to consumer within thirty days after test, the company shall then be liable to the consumer for twice the amount, and the consumer has the right to withhold any further payments for any electricity furnished by the company to consumer at these premises until this double amount, as shown by corrected meter, is made good. If however, there are any other bills due the company from the consumer for current supplied,

or labor or supplies, the amount so owed by consumer shall be applied by the company in their settlement with consumer.

Sec. 129. Undercharge—Payment by Consumer—Penalty.—In case any meter is found to be in excess of three per cent slow, if the amount due the company from the consumer (as provided for in Section 126), is not paid by the consumer within thirty days after test, the company is authorized to remove meter and disconnect service from said building, and the light company is not required to re-connect service until all old accounts are settled, and, further, the company is authorized to make a charge of \$5.00 before resetting another meter for this consumer, this \$5.00 to go toward the cost of removing the first meter and resetting second meter. Said \$5.00 to be paid at the office of the company before consumer can have a meter re-set.

Sec. 130. Request for Test Not Cause For Non-Payment of Bill.—The request for the test of meter by consumer is not to be considered as a cause of non-payment of the bill as rendered by the company, the method of refund and time being as herein provided.

Sec. 131. Stopped Meter—Computation of Charges.—In case of a stopped meter, and the inspector being so notified either by consumer or company, the inspector shall order that a new meter be installed and the average current consumed per day, in the ten days succeeding the installation of said meter as shown by this new meter, shall be taken as a basis of settlement for the time it is known the meter has been stopped, or if the time is not known, such time, not to exceed thirty days, as in the judgment of the inspector is in fairness to both parties.

Sec. 132. Meter or Wires Tampered With—Rights of Company—Penalty.—In case it is found at any time by the company that a meter on the premises of a consumer has been tampered with, or purposely made inaccurate, or that the meter seal has been tampered with or broken, or any wires attached to meter in order to make inaccurate readings, or any wires so run as to divert current so that it does not pass through the meter, the Inspector and City Electrician shall be so notified, and upon their finding any of the above conditions, shall then authorize the com-

pany to remove said meter and all service from said consumer, and the Kansas City Electric Light Company, may, thereafter refuse to furnish service to the person served through this meter at the place where meter was installed, or any other place; and, further, in any case where fraud has been practiced on the company by any person or persons by tapping or connecting to the feed wires of the company and obtaining current without a meter, such person or persons shall be deemed violators of this Article, and subject to the penalty provided in Section 135 of this Article.

Sec. 133. Inspector to Keep Record—Shall Contain What—Open to Public.—The inspector shall keep careful record in a book or books of the inspections and tests made by him, in which book shall be an accurate record showing the company number of each meter tested and capacity of each meter tested by him, the date on which test was made, and the name of the person for whom it was tested, also a record showing condition in which meter was found, as to its accuracy as shown by test and whether or not the meter or its connections had, in any way, been tampered with; and all these records and proceedings of his office shall be open at all times to public inspection.

Sec. 134. Charges Against Inspector—Trial—Removal—Appointment of Successor.—If any charges of incompetency such as failure to keep complete records, lack of knowledge of the art, or failure to conduct and manage this office in a wholly honest and impartial manner, be made to the Mayor of Kansas City, the said inspector shall have a hearing before the Mayor, the President of the Upper House and the Speaker of the Lower House, and if such charges be verified, in the opinion of the majority of this board, said inspector shall be immediately removed from office, and another inspector promptly appointed by the Mayor, and confirmed by Upper House to take charge of office.

Sec. 135. Penalty.—If any person, firm, company or corporation shall willfully refuse to comply with any provision of this ordinance, or the spirit thereof, said person, firm, company or corporation shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine of not less than twenty-five dollars nor more than one hundred dollars for each violation of the provisions of this Article.

ARTICLE III.

SUPERVISOR OF LIGHTS.

| Section. | Section. |
|---|--------------|
| 136. Supervisor of Lights—Appointment—Term of Office. | 137. Duties. |
| | 138. Salary. |

Sec. 136. **Supervisor of Lights—Appointment—Term of Office.**—There is hereby created the office of Supervisor of Lights. Such officer shall be appointed by the Mayor, by and with the consent and advice of the Upper House of the Common Council. He shall hold office for a period of two (2) years, and until his successor is appointed and qualified.

Sec. 137. **Duties.**—It shall be the duty of said Supervisor of Lights to keep an accurate account of all gas lights, electric lights and gasoline lights or other means adopted for the lighting of the city, with the location of each light inside of the city limits. He shall check over and verify all bills rendered to the city for light furnished to the city, and all bills must be presented to him for approval. He shall attend all meetings of the Light Committee of the Upper House and the Gas Committee of the Lower House of the Common Council, except when meetings are held by both committees at different places at the same time. He shall see that all contracts for the construction and maintenance of lamp posts or other means of lighting are complied with, and that all ordinances for the location of street lamps at street crossings and elsewhere are enforced; he shall make recommendations from time to time to the Light and Gas Committees of the Common Council for the location of lights or for the removal of such lights as have been heretofore located, and as may be found unnecessary. He shall examine into the condition and number of the lights in actual service and see that they are located and kept lighted in accordance with all contracts made with the city; and that they are of the kind and character contracted for; and it shall be his duty to keep informed with respect to all matters pertaining to the lighting of the city.

Sec. 138. **Salary.**—Said Supervisor of Lights shall be paid a salary of eighteen hundred dollars (\$1,800.00) a year, said payment to be made out of the Officers and Employees Department, in the same manner as other officers and employes of the city are paid.

CHAPTER 4.

LICENSES.

Article.

- I. License Inspector.
- II. Fees—Definitions—Regulations.
- III. Miscellaneous Provisions.
- IV. Pawnbrokers.

Article.

- V. Dramshops.
- VI. Issuing and Recording Licenses.
- VII. Merchants' Licenses.

ARTICLE I.

LICENSE INSPECTOR.

Section.

- 139. Inspector of Licenses.
- 140. Duties.

Section.

- 141. Compensation.

Sec. 139. Inspector of Licenses.—The Mayor, by and with the consent of the Upper House of the Common Council, shall appoint some competent person to be inspector of licenses. Such appointment shall be made at the same time and in the same manner that other city officers are appointed. He shall hold his office for the term of one year, and until his successor is appointed and qualified unless sooner removed for cause.

Sec. 140. Duties.—It shall be the duty of said inspector of licenses to ascertain what licenses are required by the ordinances of the city, and to see that no person engages in any business or calling wherein a license is required without having first obtained such license, and to report all persons found so engaged to the prosecuting officer of the city for prosecution.

Sec. 141. Compensation.—The said inspector shall be entitled to receive as pay for his services as inspector of licenses such sum as is or may be provided by ordinance.

ARTICLE II.

FEES—DEFINITIONS—REGULATIONS.

Section.

142. Fees.
 143. Vehicles.
 144. Insurance Agents, Etc.
 145. Lunch Wagons, Etc.
 146. Circuses, Etc.
 147. Fortune Tellers and Clairvoyants
 —Licenses—Application for—De-
 finition — Bond — Conditions —
 Right of Action Against—License
 Fee—Penalty.

Section.

148. Auctioneers—Application for Li-
 cense — Bond — Conditions of —
 Right of Action Against—Pen-
 alty.
 149. Live Stock Auctioneer—License
 —Fee.
 150. Refrigeration Companies.
 151. Automatic Scale, Shoe-Shining
 and Selling Machines—Occupa-
 tion License—Name of Owner
 and Operator—Penalty.
 152. Definitions.

The power to license and regulate various occupations is conferred by Charter, Art. III, Sec. 1, Cls. 4, 5, 6, 7.

Sec. 142. Fees.—Every person, firm or corporation herein described and every person, firm or corporation engaged in any occupation, calling or trade hereinafter specified, shall procure a license from the City. The fee for each license herein described shall be as provided in this section:

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| Automobile Agency. | a year | \$ 25.00 |
| Auction House Proprietor. | a year | 12.50 |
| Auctioneer. | a year | 150.00 |
| Apartment House, Tenement House, Boarding House, or Rooming House, 50 cents a year for each and every room in excess of ten rooms in such house. | | |
| Agent or Solicitor for Nursery. | a year | 25.00 |
| Advertising Agent. | a year | 100.00 |
| Amusement Ticket Broker. | a month | 50.00 |
| Amusement Park. | a month | 50.00 |
| Astrologist. | a year | 100.00 |
| Adjusters and Collector. | a year | 25.00 |
| Abstractor of Land Titles. | a year | 25.00 |
| Automobile Repair Shop. | a year | 12.50 |
| Automobile Garage. | a year | 15.00 |
| Automatic Scale Machine. | each, a year | 2.00 |
| Automatic Shoe Shining Machines. | each, a year | 5.00 |
| Amusement Parlor, by which shall be meant to in- clude any place containing Automatic Amusement Machines, Shooting Galleries and Moving Picture Exhibitions, in the same building. | a year | 100.00 |

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| Baseball Amusement Park, having a seating capacity of two thousand five hundred (2,500) or more patrons or guests. | a year | 250.00 |
| Baseball Amusement Park, having a seating capacity of more than one thousand (1,000) and less than two thousand five hundred (2,500) patrons or guests. | a year | 1.00 |
| Bowling or Ball Alley. | a year | 25.00 |
| Bill Poster. | a year | 100.00 |
| Banker. | a year | 150.00 |
| Banks, Banking and Trust Companies. | a year | 150.00 |
| Brokerage Company. | a year | 25.00 |
| Beer Depot or Store Room. | a year | 12.50 |
| Building Company. | a year | 25.00 |
| Bicycle Repair Shop. | a year | 12.50 |
| Barber Shop. | a year | 2.50 |
| Bath House. | a year | 12.50 |
| Brewer. | a year | 200.00 |
| Brewers' Agency. | a year | 200.00 |
| Boxing Contest. | a day | 25.00 |
| Concert. | a day | 10.00 |
| Claim Agent. | a year | 25.00 |
| Coal Dealer. | a year | 25.00 |
| Coal Peddler. | a year | 25.00 |
| Cyclorama. | a year | 100.00 |
| Cattle Dealer. | a year | 30.00 |
| Commission Merchant. | a year | 12.50 |
| Chiroprapist and Corn Doctor. | a year | 10.00 |
| Cash Register Agent. | a year | 25.00 |
| Cash Register Agency. | a year | 25.00 |
| Cold Storage Company. | a year | 100.00 |
| Clothes Cleaner and Presser. | a year | 5.00 |
| Cattle Show. | a week | 100.00 |
| Chauffeurs or Automobile Driver. | a year | 2.00 |
| Dog Show. | a day | 25.00 |
| Distiller. | a year | 100.00 |
| Dye House. | a year | 12.50 |
| Dance Hall and Dance House, \$10.00 a month or. | a year | 50.00 |
| Dealer in Second-hand Goods. | a year | 12.50 |
| Electric Charging Station. | a year | 15.00 |
| Equestrian Exhibition. | a day | 10.00 |
| Electric Lighting Company. | a year | 500.00 |

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| Examiner of Titles. | a year | 25.00 |
| Employment Agent. | a year | 100.00 |
| Employment Office. | a year | 100.00 |
| Financial Agent. | a year | 25.00 |
| Financial Broker. | a year | 25.00 |
| Ferry Landing. | a year | 25.00 |
| Florist Store. | a year | 10.00 |
| Grain Elevator. | a year | 50.00 |
| Guarantor of Titles. | a year | 25.00 |
| Hotel, 50 cents a year for each and every room. | | |
| Horse Show. | a day | 25.00 |
| Hall for Public Use. | a year | 50.00 |
| Horse and Mule Market. | a year | 30.00 |
| Hawker and Huckster, \$35.00 a year for each vehicle used in business; and \$10.00 a year for each barrel, hand basket or push cart used in business. | | |
| Horoscopic Views, for gain. | a month | 5.00 |
| Hairdressing Establishment. | a year | 5.00 |
| Ice Dealer. | a year | 25.00 |
| Ice Cream Dealer. | a year | 12.50 |
| Intelligence Agent. | a year | 100.00 |
| Intelligence Office. | a year | 100.00 |
| Investment Company. | a year | 50.00 |
| Junk Dealer. | a year | 50.00 |
| Keeping for gain any Billiard Table, Pool Table, Bagatelle Table, Pigeon Hole Table or Shuffle Board Table, for use of others, for each table or board. | a year | 5.00 |
| Keepers of Knife, Board and Cane Racks, for each board or rack. | a month | 5.00 |
| Loan Agent. | a year | 25.00 |
| Loan Company. | a year | 25.00 |
| Lumber Broker. | a year | 50.00 |
| Lightning Rod Agent. | a year | 100.00 |
| Laundry. | a year | 25.00 |
| Livery Stable. | a year | 15.00 |
| Lung Tester. | a year | 25.00 |
| Live Stock Dealer. | a year | 30.00 |
| Lumber Agent. | a year | 25.00 |
| Merchant, as an occupation tax, distinct from his, her or their advalorem merchandise tax. | a year | 12.50 |

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| Merchandise Broker. | a year | 25.00 |
| Milk Dealer. | a year | 12.50 |
| Mercantile Agent. | a year | 200.00 |
| Money Lender on Chattels or Chattel Mortgages. | a year | 100.00 |
| Money Changer. | a year | 100.00 |
| Magnetic Healer. | a year | 100.00 |
| Museum. | a year | 100.00 |
| Money Broker. | a year | 25.00 |
| Muscle Developer. | a year | 25.00 |
| Meat Shop or Meat Market. | a year | 17.50 |
| Motorcycle. | a year | 2.00 |
| Manufacturer. | a year | 12.50 |
| Moving Picture Theater. | a year | 100.00 |
| Merry-go-round. | \$50.00 a year; or, a week | 5.00 |
| Masseur. | a year | 12.50 |
| Nursery. | a year | 25.00 |
| Nickel Automatic Weighing or Selling Machine or Device. | a year | 5.00 |
| Office Building, 25 cents a year for each and every room. | | |
| Ordinary. | a year | 15.00 |
| Operatic Amusement Place. | a year | 200.00 |
| Other Agents of whatever kind or character not otherwise specified in this ordinance. | a year | 25.00 |
| Other Brokers of whatever kind or character not oth- erwise specified in this ordinance. | a year | 25.00 |
| Other Slot Machines or Devices of whatever kind or character not otherwise specified in this ordi- nance. | a year | 2.50 |
| Penny Automatic Scale Machine. | a year | 2.00 |
| Penny Automatic Selling Machine or Device. | a year | 2.00 |
| Photographer. | a year | 12.50 |
| Plumber. | a year | 12.50 |
| Public Lecturer. | a day | 5.00 |
| Public Scales. | a year | 25.00 |
| Produce Broker. | a year | 25.00 |
| Produce Dealer. | a year | 12.50 |
| Panorama. | a year | 100.00 |
| Pedestrian Exhibition. | a day | 5.00 |
| Private Detective Agency. | a year | 50.00 |
| Private Detective. | a year | 10.00 |
| Patent Right Dealer. | a year | 25.00 |

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| Pin Alley. | a year | 25.00 |
| Pawn Broker. | a year | 200.00 |
| Peddler of Goods, Wares and Merchandise, \$5.00 a month or. | a year | 50.00 |
| Photographer's Agent. | a year | 25.00 |
| Publishing Company. | a year | 25.00 |
| Private Hospital and Similar Institutions. | a year | 100.00 |
| Penny Automatic Selling Machine or Device, each. | a year | 2.00 |
| Publishing House. | a year | 25.00 |
| Printing Company or Establishment. | a year | 12.50 |
| Poultry Show. | a day | 10.00 |
| Publisher of Daily Papers. | a year | 100.00 |
| Publisher of Weekly Papers. | a year | 25.00 |
| Phrenologist. | a year | 100.00 |
| Palmist. | a year | 100.00 |
| Runner. | a year | 500.00 |
| Real Estate Agent or Broker and Rental Agent. | a year | 25.00 |
| Roller Skating Rink, \$12.50 a month, or. | a year | 100.00 |
| Railroad Ticket Broker. | a year | 50.00 |
| Resident Theatrical Agent. | a year | 50.00 |
| Railroad News Agent. | a year | 100.00 |
| Railroad Traffic Agent. | a year | 25.00 |
| Renovating and Repair Establishment. | a year | 12.50 |
| Restaurant. | a year | 25.00 |
| Sewing Machine Agency. | a year | 25.00 |
| Sewing Machine Agent. | a year | 25.00 |
| Street Stand, \$2.00 a week, or. | a year | 50.00 |
| Storage and Transfer House. | a year | 50.00 |
| Sales Stable. | a year | 25.00 |
| Stock Yards Company. | a year | 600.00 |
| Street Exhibition. | a day | 10.00 |
| Sparring Exhibition. | a day | 25.00 |
| Shoe Shining Parlor. | a year | 12.50 |
| Slot Weighing Machines, each. | a year | 2.50 |
| Sale of Unclaimed Goods. | a year | 12.50 |
| Solicitor for Railroad Ticket Broker. | a year | 500.00 |
| Shooting Gallery. | a year | 25.00 |
| Trance Medium. | a year | 100.00 |
| Theatrical Amusement Place. | a year | 200.00 |
| Telegraph Company or Agency, each for business done exclusively within the City of Kansas City and not including business done to or from | | |

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| points without the State of Missouri, and not including any business done for the Government of the United States, its officers or agent.....a year | 250.00 |
| Transient Merchant, for first ten days.....a day | 25.00 |
| For each day thereafter.a day | 10.00 |
| Typewriter Agency.a year | 25.00 |
| Typewriter Agent.a year | 25.00 |
| Transfer Company.a year | 12.50 |
| Undertaker.a year | 25.00 |
| Venereal Hospital.a year | 100.00 |
| Veterinary Surgeon or Doctor.....a year | 10.00 |
| Veterinary Hospital.a year | 12.50 |
| Wrestling Exhibition.a day | 10.00 |
| Wagon Yard Proprietor.a year | 12.50 |
| Wild West Show, \$100.00 a day for the first day's exhibit, and \$50.00 a day for each day's exhibition thereafter. | |
| Wood Dealer.a year | 15.00 |

Any person, firm or corporation who shall violate any of the provisions of this article, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than ten dollars (\$10.00), nor more than five hundred dollars (\$500.00) for each and every offense.

Whenever in this article an occupation, pursuit, calling or vocation is expressly licensed by name and such occupation, pursuit, calling or vocation is that of a merchant, the twelve dollars and fifty cents (\$12.50) license a year charged said merchants shall not apply to such occupation, pursuit, calling or vocation so expressly licensed by itself, as it is not the intent of this article to place a double or duplicate occupation license tax on any occupation, pursuit, calling or vocation.

A separate license shall be obtained for each place of business conducted, operated, maintained or carried on by every person, firm or corporation engaged in any occupation, calling or trade, for which a license is required by this article.

Sec. 143. **Vehicles.**—Hereafter no vehicle shall be used, driven or operated in or upon the streets, alleys or public places of the City, without a license being paid for such use. And by reason of the fact that the streets and public places of the city are more rapidly worn and more constantly used by some vehicles than by

others, the following schedule of license fees is hereby fixed to be paid for such use, to-wit:

Hansom Cabs; when drawn by one horse or animal, \$3.00 per annum; when drawn by two or more horses or animals, \$5.00 per annum.

Hackney Coaches (called in modern parlance Hacks), when drawn by one horse or animal, \$2.50 per annum; when drawn by two or more horses or animals, \$5.00 per annum.

Carriages; when drawn by one horse or animal, \$2.00 per annum; when drawn by two or more horses or animals, \$4.00 per annum.

Barouches; when drawn by one horse or animal, \$2.00 per annum; when drawn by two or more horses or animals, \$4.00 per annum.

Buggies; when drawn by one horse or animal, \$1.50 per annum; when drawn by two or more horses or animals, \$3.00 per annum.

Wagons (other than job); when drawn by one horse or animal, \$2.00 per annum; when drawn by two horses or animals, \$4.00 per annum; when drawn by three horses or animals, \$5.00 per annum; when drawn by four or more horses or animals, \$6.00 per annum.

Omnibuses; when drawn by one horse or animal, \$5.00 per annum; when drawn by two horses or animals, \$7.50 per annum; when drawn by three horses or animals, \$10.00 per annum; when drawn by four or more horses or animals, \$12.50 per annum.

Carts; when drawn by one horse or animal, \$1.50 per annum; when drawn by two or more horses or animals, \$3.00 per annum.

Drays (under which head is included vehicles used for moving iron safes and other heavy merchandise); when drawn by one horse or animal, \$5.00 per annum; when drawn by two horses or animals, \$7.50 per annum; when drawn by three horses or animals, \$10.00 per annum; when drawn by four or more horses or animals, \$12.00 per annum.

Job Wagons; when drawn by one horse or animal, \$2.50 per annum; when drawn by two horses or animals, \$5.00 per annum; when drawn by three horses or animals, \$7.50 per annum; when drawn by four or more horses or animals, \$10.00 per annum.

Bicycles, \$1.00 per annum.

Tally Ho; when drawn by one horse or animal, \$5.00 per annum; when drawn by two horses or animals, \$10.00 per annum; when drawn by three horses or animals, \$12.50 per annum; when drawn by four or more horses or animals, \$15.00 per annum.

Automobiles, \$10.00 per annum.

All other vehicles, of whatsoever kind, nature or character, not hereinbefore enumerated; when drawn by one horse or animal, \$1.50 per annum; when drawn by two horses or animals, \$3.00 per annum; when drawn by three horses or animals, \$4.00 per annum; when drawn by four or more horses or animals, \$5.00 per annum.

No person shall use or drive any vehicle required by this section to be licensed, or knowingly cause or permit the same to be used or driven through, in or upon the streets or public places of this city, unless a license for the same has been procured, as provided herein; and the metal tag or plate, provided for by this chapter, shall be conspicuously fastened upon the right side of the vehicle so licensed, and kept so fastened. Any person failing, neglecting or refusing to comply with any provision or regulation of this section, shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be fined in a sum of not less than one (\$1) dollar nor more than three hundred (\$300) dollars; and each day that any person fails, neglects or refuses to comply with any provision of this section shall be deemed and taken to be a separate and distinct offense.

Sec. 144. Insurance Agents, Etc.—No person, firm or corporation shall engage in the business, trade, profession or calling hereinafter described, without first securing a license for the same from Kansas City, Missouri. The amount to be paid for said license shall be as hereinafter set forth.

| | |
|--|--------------------|
| The agent or agents of any fire insurance company. | \$100.00 per year. |
| The agent or agents of any life or accident insurance company. | 100.00 per year. |
| The agent or agents of any surety, liability, fidelity, plate glass or steam boiler insurance companies. | 25.00 per year. |

Such license shall be paid annually, in advance, on the first day of February of each and every year.

Any person, firm or corporation who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than three hundred dollars (\$300.00) for each and every offense. And each day he shall continue to violate the requirements of this section shall be deemed a separate offense.

Sec. 145. Lunch Wagons, Etc.—That every person, firm or corporation engaged in the business of conducting a lunch wagon, popcorn wagon, lemonade wagon or candy wagon shall procure a license from the city, which shall be as follows: For each lunch wagon, popcorn wagon, lemonade wagon or candy wagon, when drawn by one or more horses or animals, the sum of twenty-five (\$25) dollars per year; for each lunch wagon, popcorn wagon, lemonade wagon or candy wagon, when drawn or pushed by hand, the sum of fifteen (\$15) dollars per year.

Sec. 146. Circuses, Etc.—That hereafter every person, firm, association or corporation exhibiting any circus, menagerie or circus and menagerie in Kansas City, shall pay to the city as a license for the privilege of exhibiting the same the following sum, to-wit: For each and every circus, menagerie or circus and menagerie employing or using railroad cars for its transportation by rail, for the first day same may be exhibited, the sum of five dollars (\$5.00) for each of said railroad cars, but in no event shall any license for any circus hereunder exceed the sum of three hundred dollars (\$300.00) for said first day, no matter how many of said railroad cars said circus may have or use; and for each day's exhibition thereafter the sum of three dollars (\$3.00) for each of said railroad cars.

No person, firm or corporation shall exhibit or participate in the exhibition of any circus, menagerie or circus and menagerie, either as owner or proprietor, or as an officer of any corporation, or as manager, superintendent, agent, servant or employe thereof, assist directly or indirectly in such exhibition unless a license for the exhibition of the same shall have been duly issued to the person, firm or corporation exhibiting such circus, menagerie or circus and menagerie, and shall be in force.

No circus, show or entertainment exhibited or held in or under a tent, or in the open air, within the limits of Kansas City, shall reserve more seats, commonly known as "reserved seats," for which an extra charge is made, than one-half of all the seats actually erected and constructed for the use of the public within said show and under said tent, or in the open air, within the inclosure where said show is exhibited; and it shall be the duty of the city license inspector to inspect the seats, if any, within such show and under said tent or in the open air within the inclosure where said show is exhibited, and to enforce all the provisions of this section.

Any firm, association or corporation violating any of the pro-

visions of this section, or who shall falsely state the number of cars required for the transportation of such circus or menagerie shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than one hundred dollars (\$100.00) nor more than five hundred (\$500.00) for each and every offense.

No license shall be issued under this section until the applicant therefor shall deposit with the city comptroller thirty dollars (\$30.00) which sum, or as much thereof as may be necessary, shall be used under the direction of the commissioner of street cleaning and health commissioner for the purpose of making a complete sanitary clean up of all dirt, filth and refuse, which may be caused, produced or deposited by any such applicant licensed under this section; provided, however, that the city comptroller shall return to said applicant said thirty dollars (\$30.00) upon the certificate of the commissioner of street cleaning that the said applicant has made a thorough and sanitary clean up of all dirt, filth or refuse produced by said applicant while licensed hereunder.

Sec. 147. Fortune Tellers and Clairvoyants—License—Application For—Definition—Bond—Conditions—Right of Action Against—License Fee—Penalty.—Every person who shall exercise, within the City of Kansas City, Missouri, the business, profession or avocation of a Fortune Teller or Clairvoyant, shall procure a license from the city as hereinafter provided.

A Fortune Teller is one who, for a consideration, tells, or pretends to tell, by any means or method whatsoever, the events of one's life, or who has, or pretends to have a knowledge of the future.

A Clairvoyant is one who has, or pretends to have, the ability, gift or faculty of seeing or discerning objects not present to the senses, or within the reach or knowledge of persons under normal conditions.

Applications for a license under this section shall be in writing to the license inspector, and the applicant for such license shall procure three responsible and reputable citizens to make an endorsement on such application to the effect that in their opinion, the applicant is a person of good moral character. Provided, that before any license shall be granted the applicant shall file with the city comptroller a bond running to the City of Kansas City, in the sum of one thousand dollars (\$1,000.00) with two or more good and sufficient sureties, to be approved by the city comptroller, conditioned that the person obtaining such license shall fully comply with all the provisions of this section, and will pay all judgments rendered against

him for any violation of this ordinance, together with all judgments and costs that may be recovered against him by any person for damages arising or growing out of any breach of this section or deception or fraud practiced upon any person in the course of his business, trade or avocation.

Any person sustaining damage by reason of his dealings with any fortune teller or clairvoyant shall have a right of action against such fortune teller or clairvoyant, and his sureties on his bond, to the full amount specified in said bond, and as many persons as are damaged by reason of their dealings with such fortune teller or clairvoyant shall each have a right of action upon said bond, until the amount of said bond shall become exhausted. Such action may be brought in the name of Kansas City, to the use of the aggrieved person.

The applicant shall pay one hundred dollars (\$100.00) per year for a license as a fortune teller or as a clairvoyant, and such license shall authorize the business therein designated, to be carried on at one place only.

Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.

Charter, Art. III, Sec. 1, Cl. 4.

Sec. 148. Auctioneers—Application for License—Bond—Conditions of—Right of Action Against—Penalty.—Every person desiring to take out an actioneer's license shall make application therefor in writing to the license inspector, and such applicant shall procure three responsible and reputable citizens to make an endorsement on such application to the effect that in their opinion the applicant is a person of good moral character. And before any license shall be issued to any auctioneer such applicant shall file with the city comptroller a bond, running to the City of Kansas City, in the sum of one thousand (\$1,000.00) dollars, signed by the applicant and two or more sureties, to be approved by the city comptroller, conditioned that the applicant will fully comply with all the provisions of this section, and will pay all judgments rendered against him for any violation of this section, together with all judgments and costs that may be recovered against him by any person for damages arising or growing out of any willful misrepresentation or deception practiced on any person transacting any business with him. The city comptroller shall require each of the sureties on said bond to

make an affidavit concerning their financial standing; and such affidavit shall set out a full description of the property owned by such sureties, and whether the same is owned by affiant himself or jointly with others; also, whether there is any incumbrance on the property, and if so, the amount of such incumbrance. Such affidavit shall also state the location of such property and its value and that the sureties are not directly or indirectly interested in the business to be conducted under the license applied for. If from such affidavit the city comptroller is satisfied that the sureties are sufficient, then he can approve such bond.

Any auctioneer who shall make any willful misrepresentation or who shall willfully deceive any person or who shall ask, demand or receive an exorbitant or excessive sum of money as the purchase price of any article or thing or who shall be guilty of any deception whatever in the sale of any goods, wares or merchandise, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offense not less than ten (\$10.00) dollars, or more than five hundred (\$500.00) dollars; and having been twice convicted under this section for a violation of the terms hereof, the license of every auctioneer shall be declared forfeited by the judge of the municipal court, and such auctioneer shall thereafter be deemed an improper person to receive a license as auctioneer from said city; provided, however, that ever license hereafter issued to auctioneers shall state on its face that it is received and held with the understanding that it is subject to revocation by the judge of the municipal court, if the licensee shall have been twice convicted of a violation of any of the provisions of this section.

Every person sustaining damage by reason of his dealings with any auctioneer shall have a right of action against such auctioneer, and his sureties on such bond, to the full amount specified in said bond; and as many persons as are damaged by reason of their dealings with such auctioneer shall each have a right of action upon such bond, until the amount of such bond shall become exhausted. Such action may be brought in the name of Kansas City, to the use of the aggrieved person.

Sec. 149. Live Stock Auctioneer—License—Fee.—Every person or firm engaged in the occupation of selling live stock at auction shall procure a license from the city and shall pay therefor the sum of fifty dollars per year, except those selling live stock at auction upon the premises of a duly licensed stock yards company.

Sec. 150. Refrigeration Companies.—No party or company doing a refrigeration business which has been heretofore or which may hereafter pay to the city a percentage of its gross receipts from the sale of refrigeration supplies, for the privilege of laying, using and maintaining pipes and mains in the public streets, alleys and public grounds of Kansas City, for the purpose of supplying and distributing refrigeration shall be charged or required to pay an occupation tax.

Sec. 151. Automatic Scale, Shoe Shining and Selling Machines—Occupation License—Name of Owner and Operator—Penalty.—Every person, firm or corporation engaged in the business of maintaining or operating automatic scale machines, automatic shoe shining machines, nickel automatic selling machines or devices or other slot machines or devices operated for the purpose of vending merchandise in public places or in the place of business of others shall pay an occupation license for the privilege of engaging in such business in the sum of twelve and 50-100 dollars (\$12.50) per year, and no license charge shall be imposed on such machine when there shall be displayed on such machine the name of the person owning and operating the same and his business address. Nothing herein contained shall be construed as in anywise affecting the license charge now imposed by ordinance of Kansas City upon persons conducting amusement parlors as defined in Ordinance Number 874.

Any person, firm or corporation failing, neglecting or refusing to comply with any provision or regulation of this section shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and be fined not less than one dollar nor more than one hundred dollars; and each day that any person fails, neglects or refuses to comply with any provision of this section shall be deemed and taken as a separate and distinct offense.

Sec. 152. Definitions.—The following definitions for words and phrases as used in this article are hereby adopted:

Automobile Agency.—An automobile agency is an agency or office, store room or place of business, kept and maintained for the purpose of selling, offering or exposing for sale any kind of automobiles, motor cars or similar vehicles.

Advertising Agent.—An advertising agent is any person, firm or corporation engaged in or carrying on the business of solic-

ting advertisements for any newspaper, magazine or other publication, for hire or compensation, directly or indirectly.

Coal Dealer.—A coal dealer is any person, firm or corporation selling, exposing or offering for sale, coal.

Dealer.—A dealer is any person, firm or corporation that sells, exposes or offers for sale, any article.

Detective, Private.—A private detective is any person who does detective work for hire on his own account, and not as an employe of any detective agency.

Detective Agency, Private.—A private detective agency is any person, firm or corporation that conducts or carries on, or holds themselves out as conducting or carrying on a detective agency, detective bureau or detective service.

Employment Agency or Office.—An employment agency or office or intelligence agency or office is an agency or office kept for the purpose of obtaining employment for others or obtaining employes for others, or giving information whereby employers or employes may be obtained, and charging a compensation therefor.

Huckster or Hawker.—A huckster or hawker is any person selling or exposing for sale on the streets or alley ways or from house to house, any fish, meats or oysters, or any vegetables, fruits, berries or farm products not raised, grown or produced by him.

Hall, Public.—A public hall is a hall kept for rent for the use of dances, balls, concerts, lectures or such like entertainments.

Ice Dealer.—An ice dealer is any person, firm or corporation that sells, offers or exposes for sale, ice.

Insurance Agent.—An insurance agent is any person, firm or corporation engaged in or carrying on the business of insurance, or soliciting insurance for hire or compensation, directly or indirectly, for any insurance company or corporation.

Insurance.—By insurance is meant fire insurance, life insurance, accident insurance, plate glass insurance, steam boiler insurance and surety, liability and fidelity insurance.

Hotel.—A hotel is any house where persons are furnished with either board or lodging, or both, for a compensation paid or to be paid therefor, and having more than eight bedrooms for the use of guests.

Junk Dealer.—A junk dealer is any person, firm or corporation engaged in the business of buying, selling, offering for sale, trading or dealing in old iron, lead, brass, steel, copper, or other metals, rags, bones or bottles.

Meat Shop.—A meat shop or meat market is any stand, stall or place used or occupied wholly or partly for the purpose of selling, offering or exposing for sale any kind of fresh meat or bone, the products of hogs, cattle or sheep, at wholesale or retail.

Merchandise Broker.—A merchandise broker is any person, firm or corporation having an office or place of business in Kansas City, and selling merchandise or goods of any kind by sample.

Merchant, Transient.—A transient merchant is one who opens a place of business for the purpose of temporarily selling goods, wares or merchandise.

Milk Dealer.—A milk dealer is any person, firm or corporation that sells milk of any kind, buttermilk or cream, and who is not a milk producer, peddling milk without maintaining any milk depot, stand or place of business within the city.

Photographer.—A photographer is one having a place of business where the taking of photographs is carried on.

Produce Broker.—A produce broker is any person, firm or corporation having an office or place of business in Kansas City, and acting as agent in buying or selling farm products for a commission or other compensation.

Railroad News Agent.—A railroad news agent is any person, firm or corporation that keeps, conducts or maintains an agency or office kept for the purpose of soliciting or obtaining employment for or giving employment to persons to travel over any railway route, for the purpose of offering for sale and selling newspapers, books, fruits, cigars, trinkets or the like, and including any persons, partnership, companies and corporations engaged in or transacting the business of soliciting or obtaining employment for such persons.

Real Estate Agent.—Every person, corporation or partnership firm that shall act as agent for any person, persons or corporation for the sale or exchange of or the selling or exchanging of real estate, at private or public sale, for a commission or other compensation, except sheriff's and trustee's sale, or who shall accept a commission or other compensation, either directly or indirectly, for any such service, or who shall offer for sale or solicit for sale, as agent, any real estate, or who shall advertise or hang out any sign or devise which shall designate him, them or it as the agent or agents for the selling of any real estate, or who shall act as solicitor for a commission for any such real estate agent or broker, except only

regular clerks of such real estate agent or broker employed on a remunerative salary, shall be considered a real estate agent or broker within the meaning of this article.

Rental Agent.—Every person, corporation or partnership firm that shall act as agent for any person, persons or corporation in the leasing or renting of houses, or real estate for a commission or other compensation, who shall collect rents for any person, persons or corporation for a commission or other compensation, or who shall advertise or hang out any sign or devise which shall designate him, them or it as the agent or agents for the renting, collection of rents, or the leasing of houses or real estate, excepting only clerks of such rental agent, employed on a remunerative salary, shall be considered a rental agent within the meaning of this article.

Runner.—The term “runner” as used in this article shall mean any person who shall in any manner solicit customers for, or secure or attempt to secure the stopping of any passengers or other persons at any hotel, inn, boarding house, restaurant or other public place, or any person who shall in any manner, upon any street or sidewalk, solicit custom or passengers for any other trade, business or vocation whatever, or any person who shall in any manner solicit passengers or baggage to be carried or conveyed to any place within this city in any hack, omnibus, carriage, wagon or other vehicle. But the term “runner” shall not apply to any person engaged exclusively in directing passengers holding transportation coupons, tickets or checks to the omnibus, carriage or other vehicle designated in said check, coupon or ticket.

Scales, Public.—Public scales are all platform scales, except railroad track scales or elevator scales, which are or may be used for weighing stock, hay, lime, coal, stone, charcoal or any kind of coal, grain or any other article or thing for any person other than the owner of such scales.

Sewing Machine Agency.—A sewing machine agency is an agency, office or place of business kept for the purpose of selling, offering or exposing for sale any kind of sewing machines.

Sewing Machine Agent.—A sewing machine agent is any person who solicits persons by going from house to house, to purchase sewing machines.

Storage or Transfer House.—A storage or transfer house is

a building, room or rooms where goods, wares, merchandise, furniture or other articles are kept or stored for compensation.

Street Stand.—A street stand is any place near to or adjoining any sidewalk, alley or other public highway, where candy, fruits, confectioneries, nuts, lemonade or any other article or thing which is eaten or drunk, or cutlery, spectacles, hardware, pocketbooks, jewelry, or other articles of ornament or necessity are sold, offered or exposed for sale.

Council may define terms used in ordinance. (St. Louis vs Weitzel, 130 Mo. 600.)

ARTICLE III.

MISCELLANEOUS PROVISIONS.

| Section. | Section. |
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| 153. Real Estate Firm. | 165. Employment and Railroad News Agents. |
| 154. Street Stands. | 166. Detectives. |
| 155. Public Buildings. | 167. Certificate From Police Commissioner. |
| 156. Public Halls. | 168. Record of Detective License. |
| 157. Meat Shop Locations. | 169. Badge of Detective. |
| 158. Fresh Fish. | 170. Canceling License of Detective. |
| 159. Plates for Vehicles. | 171. Detective Defined. |
| 160. Huckster and Express Wagon Signs. | 172. Penalty. |
| 161. Huckster—Selling Business, Etc. | 173. Record of Billiard Tables, Etc. |
| 162. Obstructing Streets. | |
| 163. Minors Playing Billiards, Etc. | |
| 164. Minors Playing Ten Pins, Etc. | |

Sec. 153. Real Estate Firm.—It shall be the duty of each person, corporation or partnership engaged in the occupation of real estate agent or broker, or of rental agent or broker, or of rental agent, or of real estate loan agent or broker hereinbefore mentioned to furnish the City License Inspector, at the time of making application for a license to engage in any such occupation, and from time to time thereafter, with the names of all the members of any such firm, or all officers of any such corporation making such application; and no person or persons not so listed with the City License Inspector, except regular employes, shall directly or indirectly solicit for any such person, corporation or partnership firm engaged in one or more of the occupations hereinbefore described, without first obtaining a license therefor from said city as hereinbefore provided.

Sec. 154. Street Stands.—No person shall build, construct, use, keep or maintain any street stand in or upon any street, avenue,

alley, sidewalk, highway, park or public square of this city; *Provided, however,* That this section shall not apply to or include popcorn wagons, lunch wagons, candy wagons or lemonade wagons, when the same are moved at least once in every twenty-four hours.

Sec. 155. **Public Buildings.**—No person owning or controlling a public building or any part thereof, as lessees, agent or otherwise, shall use or allow any other person or persons to use such building or any part thereof, for the purposes of a public building, without a license therefor from said city, in any case where a license is required by law. Every building of which the whole or part may be designated or used for the giving of theatrical exhibitions, shall be deemed a public building.

Sec. 156. **Public Halls.**—No person owning or controlling a public hall, as lessee, agent or otherwise, shall use or allow any other person or persons to use such public hall, as a public hall, except for religious, charitable or political purposes, without a license therefor from said city.

Sec. 157. **Meat Shop Location.**—Every retail meat shop license shall specify the place to be occupied by the applicant, which shall not be within fifteen hundred feet, by the way of the meanderings of the street, from the northwest corner of the city market house, and no change of location shall be made without the consent of the Comptroller endorsed on said license.

Sec. 158. **Fresh Fish.**—No person shall sell, offer or expose for sale any fresh fish within the meat shop limits, except at the market house.

Sec. 159. **Plates for Vehicles.**—A book shall be kept by the City Auditor, in which all vehicles licensed shall be registered, containing the number of the vehicle, the name of the owner and the time when the license is issued, together with its expiration. The Auditor shall, at the expense of the owner or driver, deliver to the owner or driver of such vehicle a metallic plate, upon which shall be plainly marked the registered number of the vehicle licensed. Upon receiving said metallic plate, the owner or driver shall fasten the same securely upon the vehicle licensed, in some conspicuous place thereon, and keep the same fastened until the expiration of the license for said vehicle and no longer; and no person shall have, place or use

any such metallic plate, or any metallic plate resembling the same, upon any vehicle unless such vehicle is duly licensed. In case of loss, duplicate plate shall be issued by the City Auditor, at the expense of the person making application therefor, upon the recommendation in writing, of the License Inspector.

Sec. 160. Huckster and Express Wagon Signs.—The license inspector shall provide, at the expense of the city, one tin or metal sign for each licensed huckster's or hawker's wagon, and for each licensed express wagon, which sign, in addition to the inscription required for other vehicles, shall have the word "huckster" thereon for a huckster's or hawker's wagon, and the words "express wagon" for an express wagon.

Sec. 161. Huckster—Selling Business, Etc.—Any licensed huckster or hawker changing his place of residence, or who shall have made sale of the vehicle or business, shall within fifteen (15) days after such removal or sale, notify the City Auditor of such change or sale, and the City Auditor shall endorse upon the licenses, make a note of the same, and report such change or sale to the license inspector.

Sec. 162. Obstructing Streets.—No licensed huckster's or hawker's vehicle shall be allowed to stand on any street or alley, nor obstruct the passage of any street or alley.

Sec. 163. Minors Playing Billiards, Etc.—No licensee or his employe, or any person in charge of any billiard table, pool table, bagatelle table, pigeonhole table or shovel board, shall at any time, with or without gain or profit, permit or allow any such table or board to be used by any minor, for any purpose whatever. Any person violating, failing, neglecting or refusing to comply with any provision, regulation or requirement of this section shall be deemed guilty of a misdemeanor, and upon conviction therefor, before the Judge of the Municipal Court, shall be fined not less than ten (\$10) dollars nor more than five hundred (\$500) dollars, and in addition thereto, said Judge of the Municipal Court shall adjudge and declare such license forfeited to Kansas City, and thereafter it shall be unlawful for said license or any other person to do business under such forfeited license.

Sec. 164. Minors Playing Ten Pins, Etc.—No licensee or his employe, or any person in charge of any nine or ten pin alley,

ball alley, pistol gallery or shooting gallery shall, at any time, with or without gain or profit, permit or allow any minor to remain in or about the same, or to play thereat under penalty of the same fine and forfeiture of license, as set forth in the preceding section.

Sec. 165. Employment and Railroad News Agents.—The license for an employment office or agency, railroad news agency or intelligence office shall be subject to the following provisions: Every application for a license for an employment agency, railroad news agency, or intelligence office, shall be in writing and shall state the exact place where the proposed employment agency, railroad news agency or intelligence office shall be kept, and *provided further*, That no license for such agency or office shall be granted to any firm or corporation, but shall be granted directly to a single individual who shall be held personally responsible and liable under all the terms and conditions of this section, and any person applying for a license for such agency or office shall, before the same be granted, procure three responsible and reputable citizens of the city to make an endorsement on the back of such application to the effect that, in their opinion, the applicant is a person of good moral character. Every person holding such license shall keep a copy of this section conspicuously posted up in his or her office. That before any person shall engage in such business or any license shall be issued as provided by this section, the applicant shall file with the clerk of said city, a bond running to said city in the penal sum of one thousand dollars, signed by the applicant and two or more sureties, to be approved by the City Comptroller, conditioned that the applicant will fully comply with all the provisions and requirements of this ordinance, and pay all judgments rendered against him for any violation of this ordinance; together with such judgments and costs as may be recovered against him by any person on account of any willful misrepresentation, or for willfully deceiving any person transacting any business with him, and pay all damages by reason of demanding or receiving any unusual or exorbitant fee, or be guilty of any deception whatever to any person who may employ him or her, as the case may be, or who may employ or engage any person to perform work or render services for any other person. It must appear by the affidavit of the sureties of said bond that they are householders in and residents of Kansas City, and each worth the sum of one thousand dollars over and above all debts and liabilities, exclusive of property exempt from execution, and that they are not directly or indirectly interested in the business to be conducted under said license, and that they possess the qualifications required

of sureties in cases of arrest and bail as prescribed by the laws of the State of Missouri. Any person sustaining damage by reason of his dealings with any keeper of any employment office or railroad news agency shall have a right of action against such keeper and his sureties on said bond, to the full amount specified in said bond; and as many persons as are damaged by reason of such dealings as herein provided shall each respectively have a right of action upon such bond until the whole penalty thereof shall be exhausted. Any keeper of an employment office who shall make any willful misrepresentations, or who shall willfully deceive any person, or who shall ask, demand or receive any unusual or exorbitant fee, or be guilty of any deception whatever to any person who shall employ him or her, as the case may be, or who shall direct any female applying for employment to any house of prostitution, assignation house or other immoral resort, or who shall fail within three days to obtain employment for an applicant, and upon demand refuse to return the money paid by the applicant for employment, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined for each offense not less than fifty (\$50) dollars and not more than five hundred (\$500) dollars; and having been twice arrested and convicted under this section, the license of such person shall be declared forfeited by the Judge of the Municipal Court of said city, and he or she shall be incompetent thereafter to receive a license for an employment agency or office. Every keeper of an employment office, railroad news agency or intelligence office shall at all times keep a book, showing fully his dealings with all persons, and the same shall at all times be open to the public and all police officers of said city. The Mayor of said city shall have power and authority to revoke any and all licenses issued under this section at pleasure, and upon such revocation shall certify the same to the police department of said city; *provided*, That each license issued by virtue of this section shall express on its face that it is received and held subject to be revoked at the pleasure of the Mayor, and liable also to revocation if the licensee has been twice convicted of a violation of any of the provisions of this section.

Sec. 166. **Detectives.**—It shall be unlawful for any person other than those holding a commission issued by the Board of Police Commissioners of Kansas City, to engage in the following of a detective for hire or reward unless in the employment of a licensed detective agency, firm or corporation, without first having procured a license from Kansas City therefor.

Sec. 167. Certificate From Police Commissioners.—It shall be necessary for the applicant for a detective license or for a detective agency license, before such license can be issued, to procure a certificate from said Board of Police Commissioners, setting forth that they have caused an inquiry to be made, as to the integrity and ability of the applicant, and find no reason why a license should not issue to such applicant.

Sec. 168. Record of Detective License.—Upon issuing such license, the City Auditor shall place on record the name of the licensee, his place of business, and residence, and designate the number such licensee is to wear upon his badge.

Sec. 169. Badge of Detective.—The badge of a licensed detective shall bear the words, "Licensed Detective, Kansas City," and the number designated by the City Auditor, and if a member or employe of any detective firm, agency or corporation or association, said badge shall contain the name of the firm, agency, corporation or association of which the licensed detective may be a member or employe; said badge to be of the size and design deemed proper and appropriate by the applicant, or firm, agency, corporation or association.

Sec. 170. Canceling License of Detective.—Upon a receipt at any time, of a communication from the Board of Police Commissioners, duly attested under the seal of said commissioners, setting forth that the holder of a license as a detective, or detective agency, firm or corporation is not in their opinion a proper person, or agency, firm or corporation to have such license, it shall be the duty of the auditor to forthwith cancel such license, and send notice thereof to the licensee.

Sec. 171. Detective Defined.—Any person wearing or having concealed upon his person any badge with the word "Detective" printed, painted, stamped or engraved thereon, or who shall advertise or issue certificates of membership as coming from a detective association, or have the same in his possession, or who shall engage himself to others for hire or reward, implied or otherwise, to discover the whereabouts, habits, character, business or private life of another, shall be deemed and taken as coming within the purview of the provisions of this chapter in reference to detectives.

Sec. 172. Penalty.—Any person, firm, corporation or association other than the detectives regularly in the employ of Kansas City, or a licensed detective agency, firm or corporation following the calling and business of a detective without first having procured a license therefor, or who may continue in said business after such license may have been cancelled, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than twenty-five (\$25) dollars nor more than three hundred (\$300) dollars.

Sec. 173. Record of Billiard Tables, Etc.—The City Auditor shall keep a book wherein he shall register the number of all billiard, pool, bagatelle, pigenhole tables and shovel boards that are licensed. Upon licensing a table or board, said auditor shall deliver to the licensee a metallic plate, with the appropriate number thereon. Upon receiving said plate, the licensee shall securely fasten the same, in some conspicuous place, upon such licensed table or board, and keep the same so fastened during the time such license is in force; and, upon the expiration or forfeiture of such license said licensee shall return said metallic plate to said Auditor.

ARTICLE IV.

PAWNBROKERS.

| Section. | Section. |
|------------------------------|--------------------------------|
| 174. Definition. | 180. Inspection of Register. |
| 175. License. | 181. Registering of Purchases. |
| 176. Affidavit. | 182. Stolen Property. |
| 177. Bond of Applicant. | 183. Hours of Business. |
| 178. Manner of Payment. | 184. License for Each Place. |
| 179. Register of Pawnbroker. | 185. Penalty. |

State regulations. R. S. 1899, Chap. 139. R. S. 1909, Chap. 95.

Sec. 174. Definition.—Any person who loans money on deposit of personal property, or who deals in the purchase of personal property on condition of selling the same back again at a stipulated price, or who makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business, to-wit: three gilt or yellow balls, or who publicly exhibits any sign of money to loan on personal property, is hereby declared to be a pawnbroker.

Sec. 175. License.—No person shall carry on or engage in business as a pawnbroker in this city without having first obtained

a license therefor from said city, and such license shall conform to those now provided for or that may be hereafter provided for by ordinance.

Sec. 176. Affidavit.—Before such license is issued, the applicant therefor shall make an affidavit before some officer authorized by law to administer oaths, that he will faithfully observe and carry out all the provisions, regulations and requirements of any ordinance then in force or that may be thereafter passed, in relation to pawnbrokers or their business, and shall also set out fully the street and number where such business is to be transacted. Said affidavit shall be filed with the City Auditor.

Sec. 177. Bond of Applicant.—Every person applying for a license to engage in or carry on the business of a pawnbroker, shall, before such license is issued to him, enter into bond to Kansas City, with two or more good and sufficient securities, residents of the city, to be approved by the Comptroller, in the penal sum of two thousand dollars, conditioned that said applicant will strictly and faithfully observe all ordinances, regulations and requirements of said city in relation to pawnbrokers or their business, and will pay all costs, fines and penalties, incurred on account of his failure or neglect in that behalf, and will pay all damages resulting to any person by reason of his wrongfully purchasing, taking or receiving in pledge or on deposit any stolen property, or the property of any minor; which bond shall be filed with the city comptroller, and may be sued upon by any person damaged, as aforesaid, in the name of the city, to the use of such person; but in no event shall said city be liable for any costs in such suit.

Sec. 178. Manner of Payment.—Every pawnbroker shall, for such license, pay the sum fixed by ordinance, and shall pay the same at the time and in the manner required by ordinance.

Sec. 179. Register of Pawnbroker.—Every pawnbroker shall keep at his place of business a register, in which he shall enter, in writing, a minute description of all property taken, purchased or received, as aforesaid, including any number that may be in or upon any article, together with the time and name and place of residence (giving street and number, if within the city), of the person leaving said property, also the amount loaned, the interest charged, and the time when the loan falls due; which register shall be kept clean and

legible. He shall make such entries within one hour after the receipt or purchase of such property. Every entry shall be made in ink, and shall not in any manner be erased, obliterated or defaced.

To the person negotiating or leaving such property, he shall give a plainly written or printed ticket, having upon it a full and perfect copy of all the entries required by ordinance to be kept in such register, for which copy no charge shall be made.

It shall be the further duty of every pawnbroker to make out and deliver to the chief of police every day, before the hour of 12 M., a legible and correct copy from said register of all personal property or other valuable things received or deposited or purchased during the preceding day, together with the time when received or purchased, and a description of the person or persons by whom left in pledge, or from whom the same were purchased.

Provided, That no person shall be required to furnish such description of any property purchased from manufacturers or wholesale dealers having an established place of business, or of any goods purchased at open sale from any bankrupt stock, or from any other person having an established place of business. But such goods must be accompanied by a bill of sale or other evidence of open and legitimate purchase, and must be shown to the Mayor or any member of the Police Department when demanded.

Sec. 180. Inspection of Register.—Said register shall, at all times, be kept open to the inspection of the Marshal and Sheriff of Jackson County, or the deputy of either, any officer of the police force of this city, the City Attorney of this city and the Prosecuting Attorney of said Jackson County, and any one authorized in writing for that purpose by the Chief or Captain of said police force, which authority shall be exhibited to the pawnbroker. Said pawnbroker shall also upon request, show and exhibit to any such person or officer, for inspection, any article or articles purchased, taken or received by him.

Sec. 181. Registering of Purchases.—Every pawnbroker shall, on the absolute purchase of any personal property, enter the same in said register in the same manner as property received on pledge; and shall for five days after such purchase, keep the same at his place of business, subject to inspection by said officers and persons, as fully and to the same extent as goods received on pledge.

Sec. 182. Stolen Property.—No pawnbroker shall purchase,

take or receive in pledge or on deposit, any article of property of or from a minor, or owned by any minor, or any stolen property, or property which, from any cause, he may have reason to believe or suspect can not be lawfully or rightfully sold, pawned or pledged by the person offering it.

Sec. 183. Hours of Business.—No pawnbroker shall purchase, take or receive in pledge or on deposit, of or from any person, any article of property, between the hours of nine o'clock p. m. and seven o'clock a. m.

Sec. 184. License for Each Place.—A license shall be and is hereby required of every pawnbroker, for each and every place where such business is transacted; and it shall be unlawful for anyone to act as agent or solicitor for any pawnbroker, while such pawnbroker is engaged in such business, at a place other than that specified in said affidavit and license.

Sec. 185. Penalty.—Any pawnbroker who shall violate, fail, neglect or refuse to comply with any provision, regulation or requirement of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than fifty dollars (\$50) nor more than five hundred (\$500) dollars.

ARTICLE V.

DRAMSHOPS.

Section.

- 186. Dramshop License.
- 187. Granting—Transfer—Etc.
- 188. Duration of License.
- 189. Removal of Dramshop.
- 190. Who May Use License.
- 191. Transfer of License.
- 192. Posting License.
- 193. Definition of Property Owners.
- 194. Closing by Mayor.
- 195. Closed on Sundays, Election Days, Etc.—Selling to Minors, Drunkards, Etc.

Section.

- 196. Same.
- 197. Penalty.
- 198. Music in Dramshops.
- 199. Penalty.
- 200. Women Waiters.
- 201. Permitting Disorder.
- 202. License Not to Be Issued in Certain District.

Charter, Art. XVII, and Art. III, Sec. 1, Cl. 31.

Sec. 186. Dramshop License.—No person shall keep or take part in keeping any dramshop or tippling house without a license therefor from Kansas City, and the charge for such license shall be five hundred dollars per year. Any stand room or place kept or used

for the purpose of selling, offering or exposing for sale wines or other spirituous, fermented, malt, ardent, vinous or intoxicating liquor in any quantity, to be drunk at such stand or place, shall be deemed a dramshop or tippling house.

Sec. 187. **Granting, Transfer, Etc.**—No new license (other than a renewal or reissuance as hereinafter provided) for the keeping of a saloon or dram shop at any time thereafter be granted or issued until there shall be a population in Kansas City of at least 400,000 as ascertained by the then last preceding official census, whereupon, such new licenses for a period, not exceeding one year in time, may be issued from time to time, to lawful applicants, according to priority of application, upon full compliance by the applicant with the laws and ordinances in force in the City of Kansas City at the time of the application for such license, and after the total population in Kansas City shall equal 400,000, then there shall be issued but one license for each one thousand of the population in excess of said 400,000 of the said City of Kansas City, as ascertained by the then last preceding official census. The owner or owners or his or their legal representatives of a license to keep a dram shop or a saloon, or in case of his or their death then his or their legal representatives or some responsible person designated and appointed by his or their legal representatives, shall have and be given the right to a renewal or reissue of such license at the same, or at a different place of business, upon compliance with the ordinances governing the licensing of dram shops or of saloons, in force at the time of such renewal or reissue, and such owner or owners, or his or their legal representatives, of a dram shop or saloon license may, with the consent of the Board of Police Commissioners assign or convey his right to the renewal or the reissue thereof to any other person, who upon full compliance with the ordinances then in force in the City of Kansas City, governing the licensing of saloons or dram shops, shall be entitled to a renewal or reissue of such license in his own name for a term not exceeding one year, and each *bona fide* holder of a license, or his legal representative, in turn may assign or convey such right of renewal or reissue of such license upon the same terms and conditions as the original owner thereof could do hereunder; *provided, further, however,* That such person or persons shall duly qualify by complying with all the laws and ordinances in force at the time in the City of Kansas City. The privilege of renewal or reissue provided by this ordinance shall apply only so long as the license in each case shall have been kept in force continuously and uninterruptedly in the name of the licensee, or his

successor in interest. No license to keep a saloon or dram shop shall be hereafter issued to a firm except in the names of the individual members of the firm and no such license shall hereafter be issued to or for the benefit of a brewery, brewer, wholesale liquor dealer, or their agents, employes, or representatives.

Sec. 188. Duration of License.—Dramshop license may be issued for periods of six months at a time, expiring January 4 and July 4, on payment of half the yearly license tax. The proper officers will issue licenses in conformity with the provisions of this section.

Sec. 189. Removal of Dramshop.—No person shall, under such license, keep a dramshop or tippling house at any place other than the one designated in such license; *provided*, That the licensee may remove the carrying on of such business during the continuance of such license from the place designated in such license to any other place in the city by consent of the Board of Police Commissioners endorsed upon said license, designating the place to which said business is to be removed; *provided*, That said consent shall not be so endorsed by said board until opportunity shall have been given the resident property owners in the block to which said licensee desires to remove said business to remonstrate by appointing a day for the hearing of such remonstrances by said board, and after all remonstrances against said removal shall have been heard by said board, made at a time and place for such hearing, which shall be specified in a notice served upon the property owners in such block in all respects as provided in Article 17 of the Charter, for the remonstrances against the issuing of such license as in the first instance; but such removal, and the date thereof, shall be endorsed by the city auditor on such license, and it shall be the duty of any person so removing to present his license to the City Auditor for endorsement before such removal.

Sec. 190. Who May Use License.—No dramshop license obtained under the provisions of this chapter, shall authorize any persons to do business or act under it, but the person named therein or his immediate assignee.

Sec. 191. Transfer of License.—In case of the transfer of any dramshop or tippling house license, the transferee shall not be entitled to do business thereunder until such transferee shall have proved himself of good moral character, to the satisfaction of the

board of police commissioners, whose certificate to that effect shall be endorsed upon the license transferred, and the application for such endorsement shall be made and remonstrances against the same shall be heard by said board, upon notice to property owners in all respects in conformity with the requirements in regard to the issuing of such license in the first place. *Provided*, that in no case shall any license of any kind be assigned or transferred without the written assignment of the license made by the licensee in the presence of the auditor. No assignment of any license shall be deemed valid until said requisites have been complied with.

Sec. 192. Posting License.—Every dramshop license shall be posted in a conspicuous place in the dramshop or tippling house, so long as the license continues in force, but no longer, and every person to whom such license is issued, who shall fail or neglect to post and keep posted such license, shall be deemed guilty of a misdemeanor.

Sec. 193. Definition of Property Owners.—Whenever the words “property owners” occur in preceding sections of this article they shall not be deemed to embrace a lessee or mere occupant of a building, unless said lessee or occupant shall have a leasehold term of not less than three years upon such building. In every other case the words “property owners” as they occur in said sections, shall embrace only the owner of the ground and the owner of the building thereon; and in all cases, where the ground and the building situate thereon belongs to different persons both shall be deemed property owners within the meaning of this article.

Sec. 194. Closing by Mayor.—Every dramshop license shall be granted upon condition that the holder thereof shall close his place of business whenever the mayor, by proclamation shall so order, and for such length of time as he may order, not exceeding forty-eight hours at any one time. Any person failing, neglecting or refusing to close his dramshop as required by such proclamation shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than five hundred dollars; and, in addition thereto, the court shall adjudge and declare such license forfeited to Kansas City; and, thereafter, it shall be unlawful for said licensee or any other person to do business under such forfeited license. This section shall be endorsed upon every dramshop license,

and the holder thereof shall sign an acceptance thereof on the back of such license.

Sec. 195. Closed on Sundays, Election Days, Etc.—Selling to Minors, Drunkards, Etc.—No licensee or his employe shall keep such dram shop or tippling house open on Sunday or any day upon which any general election is held in said city or on any day between the hours of one o'clock a. m. and five o'clock a. m., nor shall such licensee permit or allow any other person to do so. No licensee or his employe shall sell, offer to sell or give any intoxicating liquor of any kind to any minor, habitual drunkard, or any person already intoxicated, nor shall such licensee permit or allow any other person to do so on his premises.

Sec. 196. Same.—The keeping open of, or allowing any one to enter any saloon or dramshop, for the purpose of purchasing or obtaining wine, beer, whiskey or liquor of any kind, on the first day of the week, commonly called Sunday, or on any day on which any general election is held in said city, is by this section prohibited, and the selling, delivering or giving to anyone, any wine, beer, whiskey or other liquor in any saloon or dramshop or social club, on the first day of the week, commonly called Sunday, or on any day on which any general election is held in said city, is by this section prohibited.

Sec. 197. Penalty.—If any owner, employe or other person, violates any provision of the next preceding section, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than ten dollars nor more than five hundred dollars.

Sec. 198. Music in Dramshops.—The playing of any musical instrument or instruments, or the making of any unusual noise or disturbance, or the singing by any person or persons, or the keeping of any parrot, quail, monkey, squirrel, or other bird or animal in any saloon, or tippling house, or dramshop, is hereby prohibited.

Sec. 199. Penalty.—Any owner or keeper of any saloon, tippling house or dramshop, permitting, procuring or allowing in such saloon, tippling house or dramshop, any act or acts prohibited by the preceding section; and any person or persons allowing or permitting, engaging in or procuring or doing, or committing any act or acts prohibited by the preceding section, shall be guilty of a misdemeanor,

and on conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars.

Sec. 200. Women Waiters.—No keeper of any dramshop, beer house, beer garden or other place of public resort, shall employ, or allow any lewd woman, or any woman having the reputation of being a prostitute, as a carrier of beer, liquors, cigars, or any other article, or to sing or dance in such house or place, or allow any such woman to act as bar-tender in such house or place, under a penalty of not less than twenty-five dollars nor more than five hundred dollars.

Sec. 201. Permitting Disorder.—No keeper of any dramshop, beer house, beer garden or other place of public resort nor the employe of such keeper shall allow any breach of the peace or disturbance of public order or decorum by noisy, riotous or disorderly conduct on such premises when it is in his power to prevent the same.

Sec. 202. No Saloons in Certain District.—No license for the keeping of a saloon or dramshop shall be issued, granted, renewed or transferred to any person, persons, association of persons, either as partners, co-owners, or otherwise in that portion of Kansas City, Missouri, bounded and described as follows: Beginning at a point in the center line of Bennington Avenue twenty-five (25) feet north of the south line of Sixteenth (16th) Street; thence west along a line twenty-five (25) feet north of and parallel with the south line of Sixteenth (16th) Street, and this line produced to the center line of Topping Avenue; thence north along the center line of Topping Avenue to an intersection with the center line of Sixteenth (16th) Street in Fairview Place, produced; thence west along the center line of Sixteenth (16th) Street in Fairview Place, and this line produced to the center line of Denver Avenue; thence south along the center line of Denver Avenue to an intersection with the center line of Sixteenth (16th) Street, west of Denver Avenue, produced; thence west along the center line of Sixteenth (16th) Street, west of Denver Avenue, and this line produced, to the center line of Jackson Avenue; thence north along the center line of Jackson Avenue to an intersection with the center line of Sixteenth (16th) Street, west of Jackson Avenue, produced; thence west along the center line of Sixteenth (16th) Street, west of Jackson Avenue, and this line produced to the center line of Cleveland Avenue; thence south along the center line of Cleve-

land Avenue to the center line of Thirty-first (31st) Street; thence east along the center line of Thirty-first (31st) Street to a point one hundred and sixty (160) feet east of the north and south center line of the east half of Section fifteen (15), Township forty-nine (49), Range thirty-three (33); thence north on a line parallel to the north and south center line of the east half of Section fifteen (15), Township forty-nine (49), Range thirty-three (33), to a point one hundred and sixty (160) feet south of the north line of Section fifteen (15), Township forty-nine (49), Range thirty-three (33); thence east on a line parallel to the north lines of Sections fifteen (15) and fourteen (14), Township forty-nine (49), Range thirty-three (33), to a point one hundred and sixty (160) feet east of the north and south center lines of the east half of Section fourteen (14), Township forty-nine (49), Range thirty-three (33); thence north on a line parallel to the center line of the east halves of Sections fourteen (14) and eleven (11), Township forty-nine (49), Range thirty-three (33), to a point one hundred and sixty (160) feet south of the north line of Section eleven (11), Township forty-nine (49), Range thirty-three (33); thence east on a line parallel to the north lines of Section eleven (11) and twelve (12), Township forty-nine (49), Range thirty-three (33), to the center line of Bennington Avenue, thence north along the center line of Bennington Avenue to the point of beginning.

ARTICLE VI.

ISSUING AND RECORDING LICENSES.

Section.

- 203. Duration of Licenses.
- 204. Record of Licenses.
- 205. Paying Fee.
- 206. Treasurer's Receipt.
- 207. Forms of License.
- 208. Auditor's Record.

Section.

- 209. Receipts.
- 210. Licenses to Firms, Associations, Etc.
- 211. Displaying Licenses.
- 212. Singular to Include Plural.
- 213. Penalty.

Charter, Art. III, Sec. 1, Cl. 7.

Sec. 203. Duration of Licenses.—All licenses issued under this chapter shall expire on January 4th or July 4th of each year, and no license shall be issued for less than a period of six months or for more than one year, provided that licenses may be issued for one, two, three, four or five months and any six months' period thereafter, and the annual charge or fee for the same shall be pro-rated according to the time for which the license is issued; further providing that licenses shall be issued by the day, week or month where specifically desig-

nated to be so issued, and no charge for the same shall be pro-rated.

Sec. 204. Record of Licenses.—The Inspector of Licenses shall keep a book containing a complete and perfect record of all licenses issued, showing the nature of the license, its date, expiration and to whom issued. In order that said record shall be complete and perfect the City Auditor shall furnish said Inspector, at the end of every week, a complete list of all licenses issued during such week, showing the nature of the license, its date, expiration and to whom issued; at the end of each month, both said Auditor and Inspector shall furnish the City Attorney a list of persons delinquent in license dues.

Sec. 205. Paying Fee.—The City Auditor shall not issue any license until the party applying for the same shall have paid into the City Treasury the sum of money charged therefor by ordinance.

Sec. 206. Treasurer's Receipt.—The City Treasurer shall, upon payment to him of the charge of any license, as provided by ordinance, give a receipt, stating the amount paid, the nature of the license desired, for what time and to whom to be issued. The receipt shall be delivered to the City Auditor who shall at once issue to the proper party the license desired, provided the applicant shall have complied in all respects with the law.

Sec. 207. Forms of Licenses.—All licenses shall be signed by the City Auditor and countersigned by the City Comptroller, and shall be invalid for all purposes until so signed and countersigned. The Comptroller shall prescribe the form of all licenses.

Sec. 208. Auditor's Record.—The Auditor shall keep a register of all licenses, showing their nature, date, expiration and to whom issued.

Sec. 209. Receipts.—The Auditor shall preserve the receipts given by the Treasurer for charges paid for licenses, and shall immediately charge the Treasurer with the amount of such receipts.

Sec. 210. Licenses to Firms, Associations, Etc.—A license may be issued to any corporation, association or partnership, or to two or more persons engaged in any joint enterprise. the same as to

a single person and for the same charge except where otherwise specially provided.

Sec. 211. **Displaying Licenses.**—All licenses granted by Kansas City shall be properly framed and displayed, in a conspicuous place, in the places of business authorized to be kept by said licensees.

Sec. 212. **Singular to Include Plural.**—The word “person” wherever used in this chapter, shall mean and include the plural number, and corporations, in all cases where the words corporation or corporations are not used.

Sec. 213. **Penalty.**—Any person violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, fined not less than one dollar nor more than one hundred dollars.

ARTICLE VII.

MERCHANTS' LICENSES.

| | |
|-------------------------|---------------------------|
| Section. | Section. |
| 214. Assessments. | 216. Dissolution of Firm. |
| 215. Amount of License. | 217. Penalty. |

Charter, Art. III, Sec. 1, Cl. 4. Art. V, Secs. 5, 6, 17, 18.

Sec. 214. **Assessments.**—It shall be the duty of every person, copartnership or corporation commencing business as merchants in Kansas City, at any time after the first day of January in each year, or at any time during the fiscal year, to furnish to the City Assessor, a sworn statement of the value of his or their merchandise, goods or wares, and the City Assessor shall thereupon ascertain the value of such goods, wares or merchandise, and return an assessment thereof to the City Auditor. If dissatisfied with such assessment, the said person, copartnership or corporation may appeal to the Common Council, at its first meeting thereafter, and the Common Council shall then ascertain and fix the value of said goods, wares and merchandise.

Sec. 215. **Amount of License.**—When such assessment is completed, a statement thereof shall be filed with the City Auditor, who shall thereupon make out and deliver to the City Treasurer a certificate stating the amount due for merchants' licenses, which

amount shall bear the same proportion to the amount of tax for one year, as the time to the end of the fiscal year is to one year. On delivery of the certificate to the City Treasurer, he shall file the same, and on payment of the amount thereof, the City Treasurer shall make and sign duplicate receipts therefor, one to be filed with the City Auditor and the other with the City Comptroller. Upon filing said receipt, the City Auditor shall sign and issue a license for the remainder of such year, to be countersigned by the City Comptroller. Said license shall state the amount of taxes so paid, which amount shall be charged to the City Treasurer.

Sec. 216. Dissolution of Firm.—If any copartnership be dissolved by the operation of law, by limitation or by mutual consent, then the person or persons having the stock in charge as successors may continue the business for the remainder of the year without any other or additional license.

Sec. 217. Penalty.—No person, firm or corporation shall engage or participate in doing any business in Kansas City, Missouri, for which a license is required by this ordinance, or shall assist, directly or indirectly, in doing such business, or any part of the same, in any manner, either as owner or proprietor, or as an officer of any corporation, or as manager, superintendent, agent, servant or employe, unless a license for the carrying on or exercising such business shall have been duly issued to the person, firm or corporation engaged therein, and shall be in force. Nor shall any person use or drive any vehicle required by this ordinance to be licensed unless a license for the same has been issued and the plate fastened conspicuously upon the right side of said vehicle. And no person shall change or obliterate any such license or plate. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding five hundred dollars, where no other penalty is specially provided.

CHAPTER 5.

MARKETS.

| Section. | Section. |
|---------------------------------|---|
| 218. Public Square Markets. | 236. Wagon Stands. |
| 219. Other Markets. | 237. What May Be Sold. |
| 220. Market Master. | 238. No Auction. |
| 221. His Duties. | 239. Collection of Charges. |
| 222. Same. | 240. Tickets. |
| 223. Market Hours. | 241. Paying Over to Treasurer. |
| 224. Market Bell. | 242. Disorder. |
| 225. Closing Market. | 243. Obstructing Market Master. |
| 226. Delivery by Wagon Load. | 244. Slaughtering in Market. |
| 227. Removing Vehicle. | 245. Market Master's Duties. |
| 228. Exhibiting for Sale. | 246. Rules and Regulations. |
| 229. Rent of Stalls and Stands. | 247. Publication of Rules. |
| 230. Monthly Payments. | 248. Curb Selling. |
| 231. Forfeiture of Lease. | 249. Same. |
| 232. Penalty. | 250. Selling at One Place. |
| 233. One Person to a Stand. | 251. Reserved Space for Unloading Wagons. |
| 234. Rules and Regulations. | 252. Penalty. |
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Charter, Art. 1, Sec. 1. Art. III, Sec. 1, Cls, 14, 15.

Sec. 218. Public Square Markets.—All that part of the public square bounded and described as follows, including the market house, is hereby designated and established as a public market, and shall be known as City Hall Market, to-wit:

Commencing on the south line of Fourth Street on a line with the east wall of the City Hall building; thence south on a line of said east wall of said building to the north line of Fifth Street; thence east and parallel with said north line of Fifth Street to the west line of Walnut Street; thence north on the west line of said Walnut Street to the south line of said Fourth Street; thence west on the south line of said Fourth Street to the point of beginning.

Sec. 219. Other Markets.—The Common Council shall from time to time establish in addition to the City Hall Market such other public markets as the convenience and necessities of the City may require.

Sec. 220. Market Master.—There shall be appointed a Market Master, who shall be nominated by the Mayor and confirmed by the Upper House of the Common Council at the same time as other appointive officers of the city, and shall receive such salary as is or may be provided by ordinance.

Sec. 221. His Duties.—It shall be the duty of the Market Master:

First: To exercise general supervision over the market and to enforce the regulations established for the government thereof.

Second: To assign places to wagons or persons attending the market and enforce order among them.

Third: To examine the quality of all articles offered for sale in the market, and to seize all blown, unsound, diseased, impure and unwholesome articles exposed for sale.

Fourth: To examine weights and measures of all articles exposed for sale in market, and to seize all articles and things which are of less weight than represented by the seller.

Fifth: To enforce order in the market place and to decide all disputes which may arise between buyer and seller, touching any article offered for sale.

Sixth: To attend the market every day during market hours.

Seventh: To cause the market house and places about the market to be thoroughly cleaned, as often as occasion may require, and all the refuse and filth to be removed therefrom.

Eighth: To keep as many scales and other implements for weighing and measuring, duly certified by the inspector of weights and measures, as may be necessary for use in testing any suspected weights and measures.

Ninth: To seize all articles offered for sale in the market which are prohibited by ordinance, or which are exposed for sale without the vendor having proper authority therefor under the ordinance, or where such article is short in weight or measures, all of which articles or things so seized shall be forfeited to the city and except unwholesome articles of food, immediately sold at public outcry, by the market master, and the proceeds paid into the city treasury.

Tenth: To order or remove from the market, in a summary manner, any person who is guilty of violent, turbulent or disorderly conduct, or unseemly or profane language, or who shall in any way

interfere with him or disturb the marketers or buyers, or who shall violate or refuse to obey any of the rules or regulations of the market.

Sec. 222. **Same.**—It shall be the duty of the Market Master, for the purpose of enabling him more effectually to carry out the provisions of this ordinance, to apply for and obtain an appointment from the Police Commissioners as a special policeman.

Sec. 223. **Market Hours.**—The market shall open for the sale of all meats, vegetables, provisions and all other articles allowed to be sold therein from daylight until seven o'clock p. m. every day Sundays and national holidays excepted; *provided*, That said market shall be kept open Saturdays until ten o'clock p. m.

Sec. 224. **Market Bell.**—The Market Master shall be provided with a bell or gong, and shall announce, by the ringing thereof, the closing of the market, at least ten minutes before the time of closing.

Sec. 225. **Closing Market.**—Every lessee or occupant of a stall or stand in or about the market shall, within one hour after the ringing of the bell as aforesaid, cause his vegetables, provisions and vehicle, if he has one, or other thing, to be removed from the market, and his stall or stand to be thoroughly cleaned, and all animal and vegetable offal and rubbish to be removed from the market, and each butcher shall cause his table, meat block and other fixtures to be thoroughly scraped and cleaned.

Sec. 226. **Delivery by Wagon Load.**—No person engaged in delivering by wagon loads, to a licensed merchant, any fish, poultry, game, fruits, vegetables or other provisions, which shall have been the product of the farm of the person delivering, or his employer, or shall have been sold or consigned to such merchant, and received by rail or boat, shall, while engaged in such service, be required to attend the market or pay any market fee.

Sec. 227. **Removing Vehicle.**—Whenever any person shall have sold or disposed of the commodities brought by him to the market for sale, he shall then remove his vehicle from the market place forthwith.

Sec. 228. Exhibiting for Sale.—Whenever any article shall be exhibited in market, as if the same were intended for sale, whether sold or not, or directly offered for sale or not, such exhibition shall be held to be exposure of the same for sale, and an offer to sell within the meaning of this chapter.

Sec. 229. Rent of Stalls and Stands.—The City Comptroller and the Finance Committee, in the month of March of each year, shall establish and grade the minimum rent to be paid per month upon all the meat stalls, and vegetable and fish stands in the public market. It shall be the duty of the Comptroller, on or before the first day of April in each year, to lease to proper and responsible persons all stalls and stands which may be applied for. The stalls in that portion of the market buildings used for the selling of meat, poultry, cheese, butter and eggs, to be leased for the term of one year, and the stands used for the selling of vegetables, fruits and fish, for the term of seven months; but no stall or stand shall be leased at any time at a rent below the minimum established by the Finance Committee. Any stall or stand which shall not be so rented on or before the first day of April, may at any time be rented by the Comptroller to any responsible person for a period not extending beyond the first day of April of the following year.

Sec. 230. Monthly Payment.—All rents of stands or stalls in the public markets of the City shall be paid monthly in advance, and each lessee shall, with one or more sureties, to be approved by the Comptroller, enter into a lease with Kansas City, conditioned for the payment of rent in the manner herein provided, and for the faithful observance and subject to the penalties and provisions of this and all other ordinances relative to the public markets of the City.

Sec. 231. Forfeiture of Lease.—If the lessee of any stall or stand shall neglect for five days after notice that the same has become due, to pay the rent thereof, such lease shall be thereby forfeited, and it shall be the duty of the Comptroller to enter and take possession of such stall or stand, on behalf of the City, and the City Attorney, or other proper officer of the City, shall at once commence legal proceedings to collect such rent.

Sec. 232. Penalty.—If any lessee of any stall or stand, whose lease shall have been forfeited, shall hold, use or occupy any stall

or stand in a public market, he shall forfeit and pay to Kansas City ten dollars for each and every day he shall so hold, use or occupy the same.

Sec. 233. One Person to a Stand.—No lessee of any stall or stand shall permit the same to be used or occupied by any other person, except by permission of the Comptroller; *provided*, that not more than one person occupy one stall or stand at the same time.

Sec. 234. Rules and Regulations.—The City Comptroller shall have power, and it shall be his duty from time to time to submit to the Common Council for its approval such rules and regulations as he may deem proper and necessary for the government and control of the public markets; and such rules and regulations, when approved, shall be printed by the Market Master and carefully distributed among all lessees of stalls and stands in such markets.

Sec. 235. Wagon Rates.—The Finance Committee and the Comptroller shall, from time to time, determine the rates per day to be paid for each wagon, cart or other vehicle standing in the markets from which vegetables, poultry, eggs, butter, fruits and flowers are sold, and shall also establish and determine the places in the public markets to be occupied by such wagons, carts or other vehicle. When such rates are established, it shall be the duty of every person in charge of such wagon, cart or other vehicle, so standing, to promptly pay the same upon demand of the Market Master, or other person in charge of the market, where such wagon, cart or other vehicle may be standing.

Sec. 236. Wagon Stands.—No farmer, gardener or other person selling or offering for sale from wagons, carts or other vehicles, within the limits of Kansas City, any grain, vegetables, fruits, meat, live poultry or any articles whatever, shall stand with such wagons, carts or other vehicles, except on the market square, in the places established, according to the first preceding section, where the Market Master or other officer in charge of such markets shall direct.

Sec. 237. What May be Sold.—No person shall be allowed to sell or offer for sale in the public markets of the City, any dry goods or clothing of any description whatever, or any glass, china or earthenware, books and stationery, or Yankee notions, nor shall

any person or persons sell or give away any wines or spirituous or fermented liquors.

Sec. 238. No Auction.—No person shall sell at auction, any goods, wares or merchandise, or furniture of any kind, within the limits of any public market.

Sec. 239. Collection of Charges.—In addition to the duties already prescribed, the Market Master or any other officer in charge of any market, shall collect a fee of twenty-five cents from every owner, driver or other person in charge of any team or vehicle standing upon or occupying, for market purposes, the public market grounds of the City, which fee shall be additional to any license fee paid by any person occupying such ground, street or spaces. For every fee so collected, the said Market Master or other officer shall deliver to the person from whom he collected the same, a ticket receipt, furnished such Market Master or other officer by the City Comptroller, as hereinafter mentioned.

Sec. 240. Tickets.—The Comptroller shall cause to be prepared a sufficient number of suitable ticket receipts for the purpose of the preceding section, with the name of the Market Master and the date stamped thereon, which said ticket receipts shall be delivered daily to the said Market Master, or other proper officer, by the Comptroller, in such quantities as may be deemed necessary for use during the day, which said ticket receipts, when so delivered, shall be charged to said Market Master, or other officer, in a suitable book prepared for such purpose. The Comptroller shall likewise deliver daily to an officer of the Metropolitan Police Force, to be designated by the Chief of Police, a number of ticket receipts, to be of the same form as those delivered to the Market Master, but of different color, and having the word "police" stamped thereon; and it shall be the duty of said police officer to demand of each owner, driver or other person, in charge of any team or vehicle, standing upon or occupying for market purposes the public market grounds of the City, the ticket receipts previously given to such owner, driver or other person in charge of such team or vehicle, as aforesaid by the Market Master, giving in exchange for such ticket receipt, the ticket receipt of different color and stamped with the word "police" as aforesaid; the said police officer shall report daily at or before the hour of four o'clock in the afternoon to the Comptroller, surrendering the ticket receipts of the Market Master, collected by him as aforesaid,

which ticket receipts, together with the unused ticket receipts issued to him, shall equal the number of the same issued to said officer.

Sec. 241. Paying Over to Treasurer.—At or before the hour of twelve o'clock, noon, of each day, the said Market Master shall turn over to the City Treasurer all money received by him in the issue of the aforementioned ticket receipts, taking his receipt for the same, which receipt shall be by said Market Master presented to the Comptroller, together with all unused ticket receipts, which receipt from the City Treasurer and unused ticket receipts shall equal in amount the total ticket receipts furnished said Market Master by the Comptroller on the previous day, and which amount, in total, shall be credited to the said Market Master in the book aforementioned.

Sec. 242. Disorder.—No person within any of the public markets of this City shall be guilty of any lewd, lascivious or disorderly conduct, or make any loud or boisterous noises or use any profane or vulgar language, or stand about without business and obstruct the passage ways of any market buildings or places, or to do any act which is calculated to lead to a breach of the peace, or which tends to disturb the good order and decorum thereof.

Sec. 243. Obstructing Market Master.—No person shall resist or obstruct the Market Master or any other officer in charge of the markets in the execution of his duties.

Sec. 244. Slaughtering in Market.—No person shall kill or slaughter within the limits of any public market, or clean any fish, except under such regulations as the Finance Committee and Comptroller may prescribe, or lay or throw or deposit any dirt, filth, dung, garbage or offal therein.

Sec. 245. Market Master's Duties.—The Market Master and other officers shall examine all articles offered and provisions exposed for sale in the markets and see that the same are of good and wholesome quality. They shall also promptly report to the Comptroller the names of all persons renting stalls and stands in the markets, who are in arrears for rent, and immediately after their collection, they shall pay into the city treasury all money received for the rent of stalls and stands, or for fees received from wagons and other vehicles. On the first Monday in each month they shall report in writing to the Comptroller the names of all per-

sons renting and occupying stalls or stands in the markets, the time for which such stalls or stands are leased or rented and the amount of rental for each.

Sec. 246. Rules and Regulations.—In addition to the rules and regulations prescribed by this chapter, authority is given the Comptroller, Market Master and Finance Committee, and it shall be their duty, to make all other needful rules and regulations touching the designation, location and arrangement, stationing and removal of all wagons, carts and other vehicles used or brought within the limits of the market; and for the control and management of the business in said markets, not inconsistent with the provisions of this Ordinance.

Sec. 247. Publication of Rules.—Immediately after the making of any rules and regulations for the market, it shall be the duty of the Comptroller to cause such rules and regulations to be printed in hand-bill form in sufficient numbers for posting, and deliver the same to the Market Master, to be posted, and he shall post the same in the most public and conspicuous places in the market house and about the market.

Sec. 248. Curb Selling.—No person or persons shall be allowed to sell their wares at the market square curb, with the exception of gardeners and farmers, who, by paying the market fee, may be permitted to remain on the curb until they have sold out, or from the time the market opens until it closes.

Sec. 249. Same.—That no farmer or gardener shall sell anything at the market square curb except such as has been raised on his own farm or garden.

Sec. 250. Selling at One Place.—That no stall-renter shall be permitted to sell at more than one place, and only at the place for which he pays rent.

Sec. 251. Reserved Space for Unloading Wagons.—That the Market Master be and he is hereby directed and authorized to reserve a strip of sidewalk and street ten feet in width, north of the market house, making an entrance from Fourth Street into the market house, which strip shall always be kept open by the Market Master in such manner as to afford ingress and egress for teams to un-

load at the market at all hours. And said ten foot space shall not be rented or leased by the Market Master at any time or to any person or for any purpose.

Sec. 252. Penalty.—That any person or persons violating any of the provisions of this chapter, or failing, neglecting or refusing to pay any fee or rent provided for in this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five (\$5) dollars nor more than one hundred (\$100) dollars.

CHAPTER 6.

NUISANCES.

Section.

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Section.

- 271. Exceptions to Above.
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- 289. Penalty and Abatement of Nuisance.

Charter, Art. III, Sec. 1, Cls. 16, 19. Art. III, Sec. 16. Art. XIV, Secs. 1, 8.

Sec. 253. Prohibition of.—No person shall permit, cause, keep, maintain or do any nuisance, as defined by the Laws of This State, or Ordinances of Kansas City, or cause or permit to be committed, caused, kept, maintained or done any such nuisance within Kansas City or within one mile of the corporate limits thereof.

Sec. 254. Nuisances Declared.—The following are hereby deemed and declared to be nuisances:

1. All substances which emit or cause any foul, noxious, unhealthy or disagreeable odor or effluvia in the neighborhood where they exist.
2. All carcasses of animals remaining exposed one hour after death.

3. All green or salted hides left or deposited in any open place.

4. All slaughter houses or pens outside of the City and within one mile of the City limits which are kept in such a condition as to be offensive, annoying or disagreeable to anyone.

5. Every soap factory, tallow chandlery, grocery, cellar, shop, tannery, brewery, distillery, meat shop, sausage factory, beef or pork packing house, stable or barn which emits or causes any offensive, disagreeable or noxious smell or odor.

6. All slop, foul or dirty water, liquor or beer washings, all filth, refuse or offal, discharged through drains or spouts, or otherwise thrown or deposited in or upon any street, avenue, sidewalk, alley, lot, park, public square, public enclosure, or any pond or pool of water.

7. All vegetables or other articles that emit or cause an offensive, noxious or disagreeable smell or odor.

8. All articles or things whatsoever caused, kept, maintained or permitted by any person, to the injury, inconvenience, or annoyance of the public.

9. All pursuits followed or engaged in, or acts done by any person, to the injury, annoyance or inconvenience of the public.

10. All hanging signs, ropes, net work or other advertising device stretched over or across any street, avenue, alley or sidewalk.

11. All ashes, cinders, slops, filth, excrement, sawdust, stones, rocks, dirt, straw, soot, sticks, shavings, oyster shells or cans, dust, paper, trash, rubbish, manure, refuse, offal, waste, water, chamber lye, fish, putrid meat, entrails, decayed fruit or vegetables, broken ware, rags, old iron or other metal, old wearing apparel, all animal or vegetable matter, all dead animals or any other offensive or disagreeable substance or thing thrown, left, deposited or caused to be left, thrown or deposited by any one in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, lot, vacant or occupied, or pond or pool of water.

Sec. 255. Rock Crusher.—The running or operating of a rock crushing machine in any block or square wherein there are three or more residences or dwellings occupied, is declared to be a nuisance, and is by this section prohibited.

Sec. 256. Runner Same—Penalty.—The running or operating of a rock crushing machine, nearer any occupied residence or

dwelling than three hundred feet is declared to be a nuisance and is by this section prohibited.

If any person shall run or operate or have run or operated, or assist in the running or operating of any rock crushing machine contrary to the provisions of either this or the next preceding section, he shall be deemed guilty of a misdemeanor, and on conviction thereof, be punished by a fine of not less than one hundred nor more than five hundred dollars.

Sec. 257. Merchandise on Sidewalk.—No person shall place, leave, deposit or hang up any beef, pork, veal, mutton or other fresh meat, bacon, ham, sausage or fish, poultry, game, vegetables, food, groceries, provisions, show cases, goods, wares or merchandise in or upon any street, avenue, alley, sidewalk or foot-way, or cause or permit the same to be done.

Sec. 258. Slops and Water.—No person shall throw or cause or allow to be thrown any water or slops upon any floor of any building occupied by him, so that the same shall run or soak through such floor or down upon or along the inside of the wall of such building to the injury, annoyance, inconvenience or damage of any person or persons occupying or doing business in any room or upon any floor or floors beneath.

Sec. 259. Substances Thrown in Sewers.—No person shall deposit or throw, or cause to be thrown or deposited, into any sewer, sewer inlet, manhole, privy, vault or cesspool, which has a privy connection, any animal or vegetable substance or any hay, straw, ashes, cinders, sticks, shavings, trash, soot, oyster shells or cans, rubbish, broken ware, rags, pieces of iron or other metal, old wearing apparel or any other article or thing whatever that is liable to cause the sewer to choke up or otherwise obstruct the free flow of water therein.

Sec. 260. Expecterating.—No person shall spit or expectorate upon the floor, steps or sides of any street car or public conveyance or public buildings or upon any public sidewalk.

Sec. 261. Slaughtering Animals, Poultry, Etc.—(A) No person shall kill or slaughter beeves, sheep, hogs or other animals within the limits of the City; *provided*, however, that this section shall not apply to regularly established beef and pork packing houses.

(B) No person shall carry on the business of killing or dress-

ing game or poultry within the limits of the City, unless the house, yard, pen or place where such killing or dressing shall take place be provided with a tight plank floor or be paved with brick or stone laid in cement; if paved with brick or stone, then the earth below it shall be sufficiently solid to prevent its becoming a receptacle of filth and offensive matter.

(C) The floor or pavement, in every instance, shall be made with a descent towards a gutter, which shall pass through the same and lead to a public, district or private sewer, when such private sewer connects with a public or district sewer. There shall be a stream of living water running continually during the entire year and with sufficient force to carry off all matter deposited from the said poultry dressing houses; and no dressing of poultry shall be done in any place whatever, not provided with water and sewer connections.

(D) Every chicken dressing place shall be whitewashed by the person in control thereof, at least once in each month, between the first of April and the first of November.

Sec. 262. Obstructing Water Course.—If any person has placed or ordered to be placed, or shall hereafter place or order to be placed, any obstruction of any kind in the channel of any natural water course or living stream, so as to in any way interfere with or impede the flowing of the water therein, he shall be deemed guilty of a misdemeanor, and on conviction therefor, he shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). And each and every day such obstruction shall be permitted to be and remain in such water course or natural stream shall constitute a separate and distinct offense.

Sec. 263. Removal of Buildings.—Any building, erection or structure which in any way interferes with or impedes the flow of water in any natural water course or living stream is hereby declared to be a nuisance, and the same shall be removed and abated by Kansas City; *provided*, that notice of thirty (30) days shall first be given to the owner or his agent, or the occupants of such building, by the Superintendent of Buildings, that such building, erection or structure interferes with and impedes the flow of the water in such a stream or water course, and the same shall be removed or altered within thirty (30) days from the date of service of such notice. Such notice shall be in writing and shall be served by the Superintendent of Buildings, or one of his assistants or deputies, by delivering a copy thereof to the person to be notified.

Sec. 264. Dense Smoke—Duty and Authority of Health Commissioner—Penalty.—The emission or discharge into the open air of dense smoke within the corporate limits of Kansas City is hereby declared to be a public nuisance. The owners, lessees, occupants, managers or agents in charge of or managing any building, except such buildings as are used for private residence purposes exclusively, from which dense smoke is so emitted or discharged, shall be deemed guilty of a violation of this ordinance; *provided*, it shall first be shown to the satisfaction of the court trying the case that there is or are known, practical device or devices, appliance or appliances, means or method, by the application of which to the building, establishment or premises, the emission or discharge of dense smoke from which complaint is made, whereby at reasonable expense prevention thereof can be had. No person, firm or corporation, engaged in the business of manufacturing or selling smoke consuming devices shall attach any said device to any boiler without first obtaining from the Health Commissioner a permit therefor, for which the sum of two dollars (\$2.00) shall be paid to the Treasurer of Kansas City, and it shall be the duty of said Health Commissioner, upon the payment of said permit fee, to forthwith issue said permit. And it shall be the duty of said Health Commissioner, within five (5) days after notice that such device has been installed to inspect the same and issue his certificate to the owner, tenant or agent of the premises to which the device is attached, stating whether or not the same complies with this Ordinance.

The said Health Commissioner shall have authority and it shall be his duty to inspect all steam furnaces, carrying thirty (30) pounds of steam or more, except in buildings used for private residence purposes exclusively, within the corporate limits of the City of Kansas City, and upon finding that the same emit dense smoke, he shall require them to be so altered as to prevent the emission of all unnecessary smoke therefrom, provided that in any suit or proceeding for the violation of this section, it shall be a good defense, if the person charged with the violation thereof show to the satisfaction of the court trying the suit or proceeding that such alterations would not appreciably lessen or diminish or prevent the production and emission of dense smoke.

The said Health Commissioner shall further have authority in the performance of the duties of his office to enter any steam boiler or engine room in any building, and no person or persons shall hinder or obstruct him in the performance of such duties. Every person igniting, feeding, stoking or attending to any steam boiler fur-

nace or any smoke preventative attached thereto shall so ignite, stoke, feed or attend such furnace fire, and shall keep such smoke preventative attached thereto in such efficient order that no unnecessary smoke shall be produced or emitted therefrom; *provided*, however, that in any suit or proceeding under this section, it shall be a good defense if the person charged with the violation thereof shall show to the satisfaction of the court that such dense smoke was omitted without fault on his part. Any person, firm or corporation guilty of violating any of the provisions of this section shall, upon conviction, be adjudged to pay a fine of not less than twenty-five (\$25.00) or not more than one hundred dollars (\$100.00); and each and every day that such violation shall continue shall be held to be a separate offense.

Charter, Art. III, Sec. 1, Cl. 29.

Sec. 265. Dense Smoke From Switch Engine—Penalty.—

The owner or owners or users of any locomotive engine used for switching purposes within the City, or the agent of such owner or owners, who shall permit or allow dense smoke to issue or be emitted therefrom within the corporate limits, shall be deemed guilty of a nuisance, and shall for every such offense be fined in a sum not less than twenty-five dollars nor more than one hundred dollars.

Sec. 266. Duty of Officers.—It shall be the duty of the Mayor and members of the Police Force of Kansas City, in connection with the Health Commissioner, to keep constant watch and supervision over all such smokestacks, chimneys, furnaces and locomotive engines; and such police force shall notify the Health Commissioner of all persons violating the two preceding sections, and in connection with said Health Commissioner shall enforce compliance with and obedience to the provisions of such sections.

Sec. 267. Spite Fences.—No person shall erect or maintain any fence or structure for the purpose of annoying any other person, or for the purpose of injuring the property of another by obstructing the view, shutting out sunshine or hindering ventilation, or causing inconvenience in any other manner, and no tight board fence over five feet, and no other fence over six feet high shall be erected within this City. Any structure erected in violation of this section is hereby declared to be a nuisance.

Sec. 268. Animals and Poultry in Pens.—No person shall keep or cause or allow or permit to be kept on any premises in this

City, occupied by him or under his charge or control, any hogs, cattle, sheep, chickens, ducks or geese, in a pen or other enclosure so that an offensive, disagreeable or noxious smell or odor shall arise therefrom, to the injury, annoyance or inconvenience of any inhabitant of the neighborhood thereof; nor shall chickens, ducks or geese be allowed to run at large.

Sec. 269. **Carcasses.**—No person owning or having in his possession the carcass of any animal, not to be used for food, shall suffer the same to be or remain in or upon any street, avenue, alley, sidewalk, park, public square, public ground, or any private lot or place without at once giving notice thereof in writing at the office of the Chief of Police, City Scavenger or Health Commissioner.

Sec. 270. **Mutilation of Carcasses.**—Any person other than the owner who shall skin or cut up or in any manner mutilate the carcass of any dead animal, lying or being in any portion of the City, without the permission of the Chief of Police or the City Scavenger, shall be deemed guilty of a misdemeanor.

Sec. 271. **Exceptions to Above.**—The provisions of the next two preceding sections shall not be deemed to apply to animals killed for use as food, but only to such carcasses as may be found in any part of the City likely to decay and become offensive.

Sec. 272. **Decayed Meat, Vegetables, Etc.**—No person shall suffer or allow any putrid or unwholesome meats or fish, decayed fruits or vegetables, refuse, offal, excrement, chamber lye or other filthy or offensive substance or thing to be or remain in or upon any house, building, lot or premises owned or occupied by him or under his charge or control.

Sec. 273. **Foul Liquids and Substances.**—No distiller, tanner, brewer, butcher, soap boiler, tallow chandler, meat packer, dyer or the keeper of any livery, feed or sale stable, the keeper of any meat shop or the servant or employe of any such person, shall discharge out of or from any stillhouse, tannery, brewery, manufactory, shop, packing house, barn, stable, meat shop or other place of business, any foul, disagreeable or nauseous liquids or substances of any kind whatever, into any pond, pool or adjoining ground, or into or upon any street, avenue, alley, sidewalk, park, public square, or other public place.

Sec. 274. Putrid Meat.—No soap boiler, butcher, tallow chandler or meat packer shall keep, collect or use, or cause or allow to be kept, collected or used, any stale, putrid or unsound fat, grease, meat, entrails or other matter, or render or fry out the same, unless done in such a manner that no offensive, disagreeable or noxious smell or odor shall arise therefrom.

Sec. 275. Sidewalks.—No owner, occupant or person in charge of any house, building, lot or premises, shall place, leave or deposit, or cause to be left, placed or deposited, or suffer or allow to remain in or upon any sidewalk, curbing or guttering in front or along side thereof, any empty boxes, barrels, kegs, crates, boards, broken ware, glass, filth, ashes, cinders, slops, excrement, sawdust, straw, soot, sticks, shavings, oyster shells or cans, paper, trash, rubbish, refuse, offal, manure, putrid fish, meat, entrails, decayed fruits or vegetables, rags, old iron or metal of any kind, old wearing apparel, any animal or vegetable matter, or any offensive substance whatever.

Sec. 276. Rendering Animal Products.—The rendering, heating or steaming of any animal or vegetable product or substance creating or generating noisome, disagreeable or unwholesome smells, odors or gaseous vapors, shall be done and conducted in steam tight kettles, tanks or boilers, and such method adopted as shall entirely condense, decompose, deodorize and destroy such smells, odors and vapors.

Sec. 277. Burning Animal Products.—No person shall burn upon his premises or upon any street, avenue, alley, sidewalk or any other place within this City, any animal or vegetable substance, the burning of which creates or generates any disagreeable, noxious or unwholesome smell or odor.

Sec. 278. Stables.—Every owner, occupant or person in charge of any barn, stable, stall, pen or apartment in which any horse, mule, ass, cattle or swine, or any other animal shall be kept, or any place where manure or liquid discharge of any such animal shall collect or accumulate, shall cause such manure or liquid discharge to be removed daily to some proper place outside of the limits of the City, and shall at all times keep or cause to be kept such barn, stable, stall, pen, apartment or place, and the drainage, yards and appurtenances in a cleanly condition.

Sec. 279. Deceased and Injured Animals.—No person shall bring or cause to be brought into Kansas City any diseased or injured animal of any kind that is usually used for food; nor shall any person bring or cause to be brought into this City any carcass or part of a carcass of any animal which shall have died of disease or injury, or which shall not have been slaughtered when in good health and free from disease or injury, to provide food.

Sec. 280. Killing or Selling Diseased or Injured Animals.—No person shall, within this City or within one mile thereof, kill any diseased or injured animal with a view to or for the purpose of having the carcass dressed or prepared for food purposes; nor shall any person sell or give away, or in any manner dispose of or offer to sell, give away or in any manner dispose of or expose for sale for use as food, all or any part of or any meat from the carcass of any animal which shall have died of disease, or in any way other than by being slaughtered when in good health and free from disease or injury, to provide food.

Sec. 281. Cleaning Animals and Vehicles.—No person shall wash or clean, or cause to be washed or cleaned, any horse, mule, ass, cattle, or any sleigh, sled, wagon, cart, dray, carriage, hack, hackney carriage, coach, buggy or other vehicle in or upon any street, avenue, alley or park, or in or upon any other place so near any such street, avenue, sidewalk, alley or park, that the water, dirt, mud or dust therefrom flows or is blown in or upon any such street, avenue, sidewalk, alley or park.

Sec. 282. Playing Musical Instruments and Singing.—No person shall play upon or take any part in the playing upon, or accompanying while played upon, any musical instrument in or upon any street, avenue, alley or sidewalk; *provided*, that this section shall not be so construed as to apply to funeral occasions, election days, holidays, military parades or parades by church or secret organizations; but no person shall play upon, take part in playing upon or accompany while played upon, any such instrument within one block of any house of worship during the hour of worship on the first day of the week, commonly called Sunday.

Sec. 283. Owners and Occupants of Houses.—No owner, occupant, or person in charge of any house, building, lot or premises shall cause or allow any nuisance to be or remain in or upon any such house, building, lot or premises.

Sec. 284. Laundries.—No power laundry shall be located, nor any building erected or constructed for the purpose of running or conducting a laundry in any block laid off in lots, if the lots fronting on the same street as the lot or lots on which said laundry is to be located, are occupied by residences, and equal to or exceed one-half (1-2) of the entire frontage of the said block on said street. Nor shall any such laundry or building to be occupied for the purpose of running or conducting a laundry be located, erected or constructed within two hundred (200) feet of any building used exclusively for residence purposes, at the time of the location, erection or construction of said laundry or building.

Provided, that this section shall not apply to laundries already in operation or small hand laundries.

No permit shall be issued for the erection of any laundry or building intended to be used for the purpose of conducting or running a laundry which shall be located at a place where the conducting of said business shall be unlawful, under the terms of this section.

Any persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each and every offense; and each day he shall continue to violate the requirements of this section shall be deemed a separate offense.

Sec. 285. Duty of Health Commissioner.—Whenever the Health Commissioner shall ascertain or have any knowledge that a nuisance dangerous to the public health exists in or upon any house or premises in this City, or within one mile of the City limits, he shall, in writing, notify the person occupying or having possession of such house or premises, to abate or remove such nuisance within a time to be specified in such notice.

Sec. 286. Penalty.—Any person notified as in the next preceding section, who shall fail, neglect, or refuse, to comply with the same within such time, shall be deemed guilty of a misdemeanor; and every day thereafter that such person shall fail, neglect or refuse to comply with the same, within such time, shall be deemed guilty of a misdemeanor, and every day thereafter that such person shall fail, neglect or refuse to abate or remove such nuisance, he shall be deemed guilty of a separate offense and shall be proceeded against as in the first instance.

Sec. 287. Offense for Each Day.—For every day after conviction (whether the judgment be appealed from or not) of any person for the violation, failure, neglect or refusal to comply with any provisions, regulations or requirements of this chapter, that such nuisance is continued, such person shall be deemed and taken to be guilty of a separate and distinct offense, for which he may be again arrested, tried, convicted and punished as in the first instance.

Sec. 288. Authority of Police.—Policemen and all officers of the police force are hereby authorized and required to go in the day time in and upon any house, building, lot, premises, whether public or private, for the purpose of removing or abating any nuisance.

Sec. 289. Penalty and Abatement of Nuisance.—Any person who shall violate, neglect, fail or refuse to comply with any provision, regulation or requirement of this chapter, shall on conviction thereof, be guilty of committing, causing, keeping, maintaining or doing or causing or permitting to be committed, caused, kept or maintained or done a nuisance, and shall be punished, where no other penalty is specially provided, by a fine of not less than one hundred dollars nor more than five hundred dollars; and if, upon such trial, it shall appear to the Judge of the Municipal Court or Appellate Court that the nuisance complained of continues to exist, said Judge of the Municipal Court or Appellate Court shall, in addition to the penalty herein provided for, make an order directing the Chief of Police or County Marshal, as the case may be, to abate such nuisance forthwith, and immediately report the expense thereof to such Judge of the Municipal Court or Appellate Court, who shall as a part of the costs of such prosecution, render judgment against the defendant for the amount of such expense, which shall be collected as other fines and costs.

CHAPTER 7.

OFFENSES AGAINST PUBLIC MORALS.

Section.

- 290. Intoxication.
- 291. Indecent Acts.
- 292. Prostitutes on the Streets.
- 293. Bathing in the Missouri River.
- 294. Indecent Advertisements—Penalty.
- 295. Obscene Literature.
- 296. Loitering on Streets.
- 297. Mendicancy.
- 298. Indecent Exhibition of Animals.
- 299. Gambling Devices—Penalty.
- 300. Gaming Houses—Penalty—Servant, Agent, Etc.—Penalty.
- 301. Participating in Games of Chance—Penalty.
- 302. Gambling—Frequenting Gambling Houses—Penalty.
- 303. Gambling—Penalty.
- 304. Selling Lottery Tickets—Penalty.
- 305. Frequenting Gaming House.
- 306. Renting Houses for Gambling, Assignment, Etc.
- 307. Houses of Ill Fame—Penalty.

Section.

- 308. Girls Under Seventeen in Bawdy Houses—Penalty.
- 309. Inmates and Frequenters of Bawdy Houses.
- 310. Renting Rooms for Immoral Purposes.
- 311. Fighting Animals, Etc.
- 312. Opium Dens—Penalty.
- 313. Frequenting Opium Dens—Penalty.
- 314. Cigarettes.
- 315. Sale of Cocaine—Penalty.
- 316. Dance Halls—Penalty.
- 317. Bawds at Balls.
- 318. Liquors, Theaters, Etc.
- 319. Indecent Newspapers—Penalty.
- 320. Closing Billiard and Pool Rooms at Certain Hours.
- 321. Penalty.
- 322. Children Out After 9 P. M.—Penalty.
- 323. Duty of Parents and Guardians—Penalty.
- 324. Duties of Police.

Charter, Art. III, Sec. 1, Cls. 21, 22, 23, 24, 26.

Sec. 290. **Intoxication.**—No person shall be in a state of intoxication in or upon any private house, building or premises not occupied by such intoxicated person, to the annoyance of any other person; nor shall any person be in a state of itoxication in or upon any street, avenue, alley, public place or place open to public view.

Sec. 291. **Indecent Acts.**—No person shall be or appear in or upon any street, avenue, alley, park, public place or place open to public view, in a state of nudity, or any dress not belonging to his or her sex, or in any indecent or lewd dress, or shall make any indecent exposure of his or her person, or be guilty of an unseemly obscene or filthy act, or any lewd, indecent, immoral, or insulting conduct, language or behavior; or shall exhibit, circulate, distribute.

sell, offer or expose for sale, or give or deliver to another, or cause the same to be done, any lewd, indecent or obscene book, picture, pamphlet, card, print, paper, writing, mold, cast, figure or any other thing, or shall exhibit or perform, or cause or allow to be exhibited or performed, in or upon any house, building, lot or premises owned or occupied by him, or under his management or control, any lewd, indecent, or immoral play or other representation.

Sec. 292. Prostitutes on the Streets.—No keeper of any bawdy house, house of prostitution, assignation house, or any inmate therein, or the keeper of any room or rooms, to which any person or persons resort for the purpose of prostitution or assignation, or any inmate of such room or rooms, shall ride any horse or other animal in or upon any street, avenue, alley or public place; nor shall any such person ride in any open hack, carriage, buggy or other vehicle, or upon any street, alley, avenue or public place, nor shall any owner or driver or other person in charge of such vehicle, convey, or cause or allow to be conveyed therein, any such person, in or upon any street, alley, avenue or public place.

Sec. 293. Bathing in the Missouri River.—No person being naked or insufficiently clothed, shall bathe, wash or swim in the Missouri River, or in any other water course, pond or pool within the City limits, between one hour before sunrise and one hour after sunset, thereby causing improper exposure of person.

Sec. 294. Indecent Advertisements—Penalty.—No person shall stick, post or put up on any street, avenue, alley, wall, fence, bridge, bill board or other public place, or cause the same to be done, any lewd, indecent, obscene, immoral or grossly written or printed advertisement, bill, poster, circular or notice of the professional skill or remedies of anyone for the cure of venereal or what is commonly called private diseases; nor shall any person leave or place, or cause to be left or placed, any such advertisement, bill, poster, circular or notice, in or upon any house, building, yard or premises; nor shall any person give or cause to be given to anyone, any such advertisement, bill, poster, circular or notice.

Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars.

Sec. 295. **Obscene Literature—Penalty.**—No person shall exhibit, circulate, distribute, sell, offer or expose for sale, or cause the same to be done, any pamphlet, book, picture, circular, card, print, paper, writing, mold, cast or figure, treating of or illustrating any of the diseases of the sexual organs, under a penalty of not less than fifty dollars nor more than five hundred dollars.

Sec. 296. **Loitering on Streets.**—No person shall loiter at the corner of streets or in the vicinity of any place of amusement, or hotel, restaurant, eating house, saloon, dramshop, or in or upon any street, avenue, alley or sidewalk, and refuse to vacate or disperse from such place when requested to do so by any policeman or police officer.

Sec. 297. **Mendicancy.**—No person shall, directly or indirectly, by word, look, sign or deed, practice or aid in begging or mendicancy in or upon any street, avenue, alley, sidewalk, park, public square or any other public place.

Sec. 298. **Indecent Exhibition of Animals.**—No person shall indecently exhibit, or cause or allow to be indecently exhibited, any stallion, ass, boar or ram, or let or cause or allow to be let, any such animal to any other animal of the opposite sex, unless they be in some inclosed place and entirely out of public view and hearing, under penalty of not less than twenty-five dollars, nor more than five hundred dollars.

Sec. 299. **Gambling Devices—Penalty.**—No person shall set up or keep any gaming table or gambling device at which any game of chance shall be played for money or property, or things representing money or property, or shall suffer, allow or permit any such table or device, at which any game of chance is played, to be set up or used in any room, house or tenement in his possession or under his control, under a penalty of not less than twenty-five dollars nor more than five hundred dollars.

Sec. 300. **Gambling House—Penalty—Servant, Agent, Etc.—Penalty.**—No person shall keep or maintain any place where persons may resort or assemble for the purpose of betting, winning or losing money or property, or things representing money or property, on the result of any game or event, or shall suffer or allow or permit any room, house or tenement, in his possession or under his

control, to be used for such purpose, under a penalty of not less than twenty-five dollars nor more than five hundred dollars; nor shall any person act as servant, employe, attendant, agent or manager at or for any place so kept or maintained or for any person keeping or maintaining such place, under a penalty of not less than ten nor more than five hundred dollars.

Sec. 301. Participating in Games of Chance—Penalty.—No person shall exhibit any gaming table or gambling device, or shall deal at or otherwise assist in any game of chance, played for money or property, or things representing money or property, under a penalty of not less than ten dollars nor more than five hundred dollars.

Sec. 302. Gambling—Frequenting Gambling House—Penalty.—No person shall, at any place, bet, win or lose money or property, or things representing money or property, upon the result of any game or event whatsoever, or shall frequent or resort to or attend any place kept and maintained for the purpose of enabling persons to bet, win or lose money or property, or things representing money or property upon the result of any such game or event, under a penalty of not less than ten dollars nor more than five hundred dollars.

Sec. 303. Gambling—Penalty.—No person shall, at any gaming table or gambling device, or at any game of chance played for money or property or things representing money or property, bet, win or lose any money or property, or anything representing money or property, under a penalty of not less than ten dollars nor more than five hundred dollars.

Sec. 304. Selling Lottery Tickets—Penalty.—Any person who shall sell, expose to sale, or cause to be sold or exposed to sale, or shall keep on hand for the purpose of sale, or shall advertise or cause to be advertised for sale, or who shall print or publish such advertisement or shall aid or assist or be in any wise concerned in the sale or exposure to sale of any lottery or policy ticket or tickets in any share or part of any lottery or policy ticket or tickets in any lottery or policy game or in any device in the nature of a lottery or of a policy game within the corporate limits of Kansas City, Missouri, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined for each and every offense in a sum not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

Sec. 305. Frequenting Gaming Houses.—No person shall, knowingly, frequent any gambling room, house or place in which any gaming table or gambling device shall be set up or used, or any game of chance shall be played for money or property, or things representing money or property, with intent, by his presence or otherwise, to aid, abet, assist, encourage or countenance any such game, person or persons in such room, house or place, engaged in any game of chance.

Sec. 306. Renting Houses for Gambling, Assignment, Etc.—No person shall, knowingly, let or lease to another any room, house or other building, for the purpose of setting up or keeping therein any gaming table or gaming device, or for the purpose of being used or kept as a gambling room or house. or for the purpose of being used as a brothel, bawdy house or house of prostitution or assignation; and every person, after having been informed that such room, house or other building, let or leased by him, is being used for any of said purposes by the lessee or any other person, shall immediately take all proper and legal ways and means to eject and oust all lessees and other persons so using such room, house or other building.

Sec. 307. Houses of Ill Fame—Penalty.—No person shall keep a bawdy house, house of ill fame, prostitution or assignation; or shall, knowingly, allow or permit any house, building or other premises in his possession or under his control, to be used for any such purposes, under a penalty of not less than twenty-five dollars nor more than five hundred dollars.

Sec. 308. Girls Under Seventeen in Bawdy Houses—Penalty.—No person shall harbor, secrete, allow or permit any girl under the age of seventeen years, to be or remain in any bawdy house, house of ill fame, prostitution or assignation, without immediately notifying the Chief of Police thereof, under a penalty of not less than twenty-five dollars nor more than five hundred dollars.

Sec. 309. Inmates and Frequenters of Bawdy Houses.—No person shall frequent any bawdy house or houses, or any house or houses of ill fame, prostitution or assignation, or shall be found an inmate of any such house or houses, or act as bar tender or sell any intoxicating liquors of any kind in any saloon or dramshop kept in any such house. .

Sec. 310. Renting Rooms for Immoral Purposes.—No person shall rent, keep, occupy or have in her possession or under her control or management, any room or rooms to which men resort for the purpose of prostitution with any female.

Sec. 311. Fighting Animals.—No person shall engage in or be in any manner concerned with any cock fight, coon fight, dog fight, or any fight between any animals, fowls or birds of any kind, or shall allow or permit any such fight in or upon any house or premises in his possession or under his control.

Sec. 312. Opium Dens—Penalty.—Any person who shall keep a room or place where other persons are supplied, at any time, with or without charge, with opium, or any drug or mixture of which opium is a component part, to be smoked, or shall supply such persons with facilities to smoke opium, or any such mixture or drug, and where such persons so supplied, do smoke such opium or drug or mixture, as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction, fined not less than ten dollars nor more than two hundred dollars.

Sec. 313. Frequenting Opium Dens—Penalty.—Any person who shall frequent any opium den, or place kept for the purpose of supplying persons, at any time, with or without charge, with opium, or any drug, or mixture of which opium is a component part, to be smoked, or for the purpose of supplying persons with facilities to smoke same, and any person who shall be found in any opium den or room or place where persons at any time are so supplied with such facilities, opium, drugs, or mixtures, shall upon conviction thereof, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00).

Sec. 314. Cigarettes.—No person within the corporate limits of this City shall sell, give away, procure for or deliver any cigarette, cigarettes or cigarette wrappers to any minor or minors.

Sec. 315. Sale of Cocaine—Penalty.—No person other than a registered pharmacist shall sell to any individual cocaine or any substance containing cocaine.

No person shall sell any cocaine or substance containing cocaine unless the demand is accompanied by a prescription from a registered physician.

No physician shall write a prescription for cocaine or a prescription containing cocaine except when he believes such prescription is necessary, after a personal examination of the patient.

Any person who shall refuse, neglect or fail to comply with, or who shall violate any provision of this ordinance shall, upon conviction, be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

Sec. 316. Dance Halls—Penalty.—No person, firm or corporation shall keep a public dance house within the limits of Kansas City, which shall be open promiscuously to the public, either upon the payment of an admission fee or otherwise, nor shall any person attend any such public dance house or public dance held therein.

No person shall knowingly let or lease to another any room, house or building for the purpose of carrying on or keeping therein any public dance house to which the public are invited promiscuously to attend, either upon the payment of an admission fee or otherwise.

No person, firm or corporation shall sell, give away or distribute any wine, beer or intoxicating liquors at any place where any dancing is being conducted or in any premises adjoining or connected therewith. This ordinance shall not be construed to prohibit a respectable dance which shall be given for a single night and for which the Mayor and Chief of Police shall issue a permit.

Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten dollars (\$10.00), nor more than five hundred dollars (\$500.00).

Sec. 317. Bawds at Balls.—No keeper or inmate of any bawdy house, house of assignation or room kept for the purpose of prostitution, shall attend any public ball or dance.

Sec. 318. Liquors, Theatres, Etc.—It shall be unlawful for any person to sell, solicit, barter or give away any wine, beer, whisky or other intoxicating liquors on the floor, in the boxes or among the audience of any theatre or variety show or minstrel performance in Kansas City.

Sec. 319. Indecent Newspapers—Penalty.—Every person or persons who shall, within this City, engage in the business of editing, publishing or disseminating any newspaper, pamphlet, maga-

zine or any printed paper, devoted mainly to the publication of scandals, whorings, lechery, assignation, intrigues between men and women, and immoral conduct of persons, or any person or persons who shall knowingly have in his or her possession for sale, or shall keep for sale, or expose for sale, or distribute, or in any way assist in the sale, or shall gratuitously distribute or give away any such newspaper, pamphlet, magazine or printed paper in this City, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten dollars nor more than five hundred dollars.

Sec. 320. Closing Billiard and Pool Rooms at Certain Hours

—No person, firm or corporation shall keep open a billiard room, pool room or bowling alley, nor shall any employe in charge of any billiard table, pool table or bowling alley permit or allow any such billiard table, pool table or bowling alley to be used on any day between the hours of 1 A. M. and 7 A. M.

Sec. 321. Penalty.—Any person violating, failing, neglecting or refusing to comply with any provision, regulation or requirement of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one dollar nor more than five hundred dollars, when no other penalty is specially provided.

Sec. 322. Children Out After 9 P. M.—Penalty.—It is hereby made unlawful for any person under fifteen years of age to be or remain in or upon any of the streets, alleys or public places in the City of Kansas City, Missouri, at night after the hour of nine o'clock P. M., unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person, or is in the performance of an errand or duty directed by such parent or guardian or other person having the care and custody of such minor person, or whose employment makes it necessary to be upon said streets, alleys or public places during the night time after said specified hour; *provided*, this section shall not apply when the person under age shall be playing or unnecessarily loitering in or upon any such street, alley or public place, whether alone or accompanied by a parent, guardian or any person or persons whomsoever. Any person violating the provisions of this section shall, on conviction, be fined in any sum not to exceed ten dollars for each offense.

Sec. 323. Duty of Parents and Guardians—Penalty.—It is

hereby made unlawful for any parent, guardian or other person having the legal care and custody of any person under fifteen years of age to allow or permit any such child, ward or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys or public places in said City within the time prohibited in the preceding section, unless there exists a reasonable necessity therefor. Any person violating the provision of this section shall, on conviction, be fined in any sum not exceeding twenty-five dollars for each offense.

Sec. 324. Duties of Police.—Each member of the police force, while on duty, is hereby authorized to arrest, without warrant, any person willfully violating the provisions of the last above section, save one, and retain such person for a reasonable time, in which complaint can be made and a warrant issued and served. Be it further ordained, that no child or minor person arrested under the provisions of this ordinance shall be placed in confinement until the parents or guardian of such minor person shall have been notified of such arrest and shall have refused to be held responsible for the observance of the provisions of this ordinance by said minor person.

CHAPTER 8.

OFFENSES AGAINST PUBLIC PEACE.

Section.

- 325. Riots—Penalty.
- 326. Disturbing the Peace.
- 327. Sunday Disturbance.
- 328. False Alarms of Fire.
- 329. Ringing Bells.
- 330. Huckster Crying Aloud.
- 331. Sounding Gongs.
- 332. Noises and Disturbances on Street.
- 333. Producing Noises on Vehicles—Penalty.

Section.

- 334. Crowds on Sidewalks and Streets.
- 335. Disturbing Congregation.
- 336. Disturbing Lawful Assemblies.
- 337. Soliciting Passengers or Baggage.
- 338. Parade Routes.
- 339. Tenting.
- 340. Gasoline Engine.
- 341. Penalty.

Charter, Art. III, Sec. 1, Cls. 24, 37.

Sec. 325. Riots—Penalty.—Any two or more persons who shall in this City assemble together or being assembled, shall act separately or in concert with intent to do or commit any unlawful act with force or violence against any of the property of this City or the person or property of another, or against the peace or to the terror of others or shall make any movement, preparation or demonstration to that end, either separately or in concert, and every person present at such meeting or assembly, with intent by his presence or otherwise to aid, abet, assist, encourage or countenance the commission or perpetration of such unlawful act or any such movement, preparation or demonstration, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars.

Sec. 326. Disturbing the Peace.—Whoever shall in this City disturb the peace of any person or persons by unseemly, profane or obscene language, calculated to provoke a breach of the peace, or by violent, tumultuous, offensive or obstreperous conduct or carriage, or by loud or unusual noises, or by assaulting, striking or fighting another; or shall in this City allow or permit any such conduct or language in or upon any house or premises owned or occupied by him or under his management or control, so that any other

person or persons in the vicinity thereof are disturbed thereby, shall be deemed guilty of a misdemeanor.

Sec. 327. Sunday Disturbances.—No person shall, on the first day of the week, commonly called Sunday, disturb the peace by noisy, riotous or disorderly conduct or carriage, in or upon any street, avenue, alley or other public place or in or upon any place of public resort.

Sec. 328. False Alarms of Fire.—No person shall intentionally give or make or cause to be given or made, any false alarm of fire.

Sec. 329. Ringing Bells.—No person shall ring or sound, or cause to be rung or sounded, in or upon any street, avenue, alley, sidewalk, park, public square or other public place, any bell or other sounding instrument, as a means of attracting people to any auction, store or other place.

Sec. 330. Huckster Crying Aloud.—It shall be unlawful for any huckster to cry aloud, and announce the sale of wares or merchandise, upon any of the public streets, alleys and highways of the City, within one (1) block of any hospital or building occupied as a hospital, school house, colleges or seminaries.

Sec. 331. Sounding Gongs.—No person shall sound or cause to be sounded, any gong in or upon any street, avenue, alley, sidewalk, park, public square or other public place, or in or upon any piazza, porch, balcony, steps or platform over, upon, near or adjoining any such street, avenue, alley, sidewalk, park, public square or other public place.

Sec. 332. Noises and Disturbances on Streets.—No person shall make, aid, countenance or assist in making any noise, disturbance or improper diversion in or upon any street, avenue, alley, sidewalk, park, public square or other public place.

Sec. 333. Producing Noises on Vehicles—Penalty.—No person, firm or corporation owning, in charge of or operating any bicycle, automobile, motor car, electric car, street car, or other vehicle, shall sound or permit to be sounded from such automobile, motor car, electric car, street car or other vehicle, any horn, whistle,

bell or other noise producing instrument or device, within the limits of Kansas City.

The provisions of this section shall not extend to the use of ordinary post horns on bicycles, automobiles, motor cars and electric cars, or gongs used on street cars, or the use of bells upon horses driven to sleighs or sleds when there is snow upon the ground and which make no more noise than is necessary to give due warning of the approach of such vehicle.

Any person, firm or corporation convicted of a violation of this section shall be deemed guilty of a misdemeanor, and shall be punished with a fine of not less than five dollars (\$5.00), nor more than fifty dollars (\$50.00).

Sec. 334. Crowds on Sidewalks and Streets.—No person shall be or remain in or about any assemblage or crowd of persons, collected in or upon any street, avenue, alley, sidewalk, park, public square or other public place, to the annoyance, inconvenience or disturbance of any person or to the obstruction of the free passage on or along any such street, avenue, alley, sidewalk, park, public square or other public place, with the intent by his presence or otherwise, to aid, abet, assist, encourage or countenance any such assemblage or crowd, or any person therein in such unlawful act.

Sec. 335. Disturbing Congregation.—No person shall disturb or disquiet any congregation or assembly, met for religious worship, by making a noise, or by rude, indecent or unseemly conduct or behavior, or by profane or vulgar discourse, within their place of worship, or so near the same as to disturb the order or solemnity of the meeting.

Sec. 336. Disturbing Lawful Assemblies.—No person shall disturb any lawful assemblage of people by making a noise, or by rude, indecent or unseemly conduct or behavior.

Sec. 337. Soliciting Passengers or Baggage.—No person shall, in the depot or upon the depot platform, or upon any walk, sidewalk or crossing connected with or leading to any depot platform of any railroad, freight or passenger depot, in this City, or in or upon the sidewalk on either side of Union Avenue, from Bluff Street to Mulberry Street, in this City, cry out for or solicit passengers, freight or baggage for any hotel, inn, boarding house, restaurant, railroad ticket broker's office or any other public place, or for

any other trade, business or vocation whatever, or for the carriage of any person, freight or baggage, in any dray, wagon, cart, hack, carriage, hackney carriage, omnibus, cab or other vehicle; nor shall any person at any place in this City, while engaged in any such business, cry out in a loud, unusual or boisterous manner, or use or utter any profane, obscene or boisterous language, or push, take hold of, jostle or otherwise annoy, vex, harass, disturb or interfere with any passenger or any other person.

Sec. 338. Parade Routes.—Whenever the Mayor by proclamation, shall define the line of march of any public parade, in any of the public streets of Kansas City, it shall be unlawful for any person not taking part in such parade to obstruct the part of the street or streets designated in said proclamation required for such parade, by riding, driving or walking or standing thereon; *provided*, that nothing contained in this section shall affect the members of the fire department or the police department in the discharge of their official duties.

Sec. 339. Tenting.—No person or persons shall put up or keep and maintain or occupy any tent or covered wagon as a habitation or place of living or lodging, either temporarily or otherwise, upon any vacant or unenclosed lot or grounds within the City limits, unless such person or persons be the owner or owners of such lot or grounds, or have a lease or leases from the owner or owners of such lot or ground.

Sec. 340. Gasoline Engine.—No gasoline engine shall be used or operated for manufacturing purposes within two hundred (200) feet of any building used exclusively for residence purposes, provided such residence is in a block in which the majority of the buildings, not counting out houses, are used for residence purposes.

Sec. 341. Penalty.—Any person violating, failing, neglecting or refusing to comply with any provision, regulation or requirement of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, where no other penalty is provided, be fined not less than one dollar nor more than five hundred dollars.

CHAPTER 9.

OFFENSES AGAINST THE PUBLIC SAFETY.

Section.

- 342. Fast Driving—Horses Not Fastened.
- 343. Driving Over Street Crossings.
- 344. Meeting Vehicles Must Turn to Right.
- 345. Carrying Concealed Weapons.
- 346. Sports Likely to Scare Horses.
- 347. Wheelbarrows on Sidewalks.
- 348. Ball Game on Streets, Sidewalks Etc.
- 349. Coasting on Streets, Sidewalks, Etc.
- 350. Advertisements on Streets.
- 351. Blasting—Penalty.
- 352. Placing Glass, Tacks, Etc. on Streets, Etc.
- 353. Discharging Firearms, Fire Crackers, Etc.—Penalty.
- 354. Limbs of Trees Over Sidewalks.
- 355. Snow, Ice and Debris on Sidewalks.
- 356. Injuring Street Lights, Poles and Hydrants.
- 357. Hitching Horses on Main and Walnut Streets and Grand Avenue.

Section.

- 358. Sprinkling Excessively.
- 359. Waste Water on Sidewalks.
- 360. Washing Windows—Cleaning Sidewalks—Penalty.
- 361. Snags, Spikes and Barbed Wire Fences.
- 362. Sleighing Without Bells.
- 363. Riding on Car Platforms, Etc.
- 364. Boarding or Alighting From Cars in Motion.
- 365. Speed on Bridges—Penalty.
- 366. Number of Animals Driven Over Bridge—Penalty.
- 367. Limits for Drove of Animals.
- 368. Disturbing Fire Alarm Wires.
- 369. Blocking Streets at Fires.
- 370. Running Over Hose.
- 371. Right of Way for Fire Department.
- 372. Interfering With Fire Department.
- 373. Injuring Fire Apparatus or Other City Property.
- 374. Impersonating Officer.
- 375. Resisting Officer.
- 376. Penalty.

Charter, Art. III, Sec. 1, Cl. 11.

Sec. 342. Fast Driving—Horses Not Fastened.—No person shall in this City ride, or drive or cause to be ridden or driven, any animal, in any street, avenue, highway, thoroughfare, or other public place, faster than a moderate gait, or shall ride or drive, or cause to be ridden or driven, any such animal or any vehicle thereto attached, in such a manner as to come in collision with or strike any other object or person, or shall leave any such animal standing in any street, avenue, alley or other public place, without being fastened or guarded so as to prevent it running away, or shall turn any such animal loose in any street, avenue, alley or other public place.

Sec. 343. Driving Over Street Crossings.—No person shall ride, lead, drive or in any manner conduct any horse, mule or other animal, upon or over any street crossing in Kansas City, faster than a walk.

Sec. 344. Meeting Vehicles Must Turn to Right.—In all cases where persons meet each other in vehicles in any street, avenue, alley or other public place in this City, each person so meeting shall turn to the right of such street, avenue, alley or other public place so as to enable such vehicles to pass each other without collision.

Sec. 345. Carrying Concealed Weapons.—No person shall in this city wear under his clothes or concealed about his person any pistol or revolver, except by special permission from the mayor; nor shall any person wear under his clothes, or concealed about his person, any slungshot, cross knuckles, knuckles of lead, brass or other metal, or any bowie knife, razor, billy, dirk, dirk knife, or dagger, or any knife resembling a bowie knife, or any other dangerous or deadly weapon. Any person violating any provision or requirement of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars; *provided*, however, that this section shall not be so construed as to prevent any United States, State, County or City Officer, or any member of the City Government, from carrying such weapons as may be necessary in the proper discharge of his duties.

Sec. 346. Sports Likely to Scare Horses.—No person shall, in or upon any street, avenue, alley, sidewalk, public square or public park, fly a kite or engage in any sport or exercise likely to scare horses or embarrass, obstruct or interfere with the passage of vehicles or pedestrians.

Sec. 347. Wheelbarrows on Sidewalks.—No person shall trundle or cause to be trundled any wheelbarrow or hand cart in or upon any sidewalk.

Sec. 348. Ball Game on Streets, Sidewalks, Etc.—No person shall play at or participate in any game of ball in or upon any street, avenue, sidewalk, alley, public square or public park, except in such part of any park as may be designated for that purpose by the Board of Park Commissioners.

Sec. 349. Coasting on Street, Sidewalks, Etc.—No person shall slide or coast upon any hand sled, wagon, cart, skates, or in any other manner in or upon any street, avenue, alley, sidewalk, public square or public park, except such parts of any park as may be designated by the Board of Park Commissioners.

Sec. 350. Advertisements on Streets.—No person shall, in or upon any street, avenue, sidewalk, alley, public square or public park, carry, bear, support or place, or cause to be carried, borne, supported or placed, any banner, sign, transparency, framework, device or emblem, intended or tending or purporting to be used as an advertisement or publication of any trade, profession or business, office or store or occupation whatever. This section shall not be so construed as to prevent or prohibit any person or corporation from advertising their business or calling on any wagon or frame of a wagon, providing such advertisement is done in a manner not calculated to frighten horses or mules, or obstruct or interfere with the passage of vehicles or pedestrians.

Sec. 351. Blasting.—No person shall blast or cause to be blasted, any rock, without having the rock safely and securely covered so as to prevent all accidents therefrom, and all sides of the orifice safely and securely protected so that no fragments of rock shall at the time of blasting, on account of the blast, ascend into the air or cause any injury whatever to any person or property. Every person violating any of the provisions of this section shall, on conviction therefor, be fined not less than fifty nor more than five hundred dollars, or shall be confined in the city jail or workhouse not less than two nor more than nine months; or shall be punished by both such fine and imprisonment.

Sec. 352. Placing Glass, Tacks, Etc., on Streets, Etc.—No person shall himself or by another throw, place, deposit or leave in any street, highway, lane, alley, public place or square any glass, broken or unbroken, or any metal, stone, earthenware, tacks, cinders, nails, boxes, boards, baskets, or other substances of a nature likely to cause injury to travelers or pedestrians or to carriage, bicycles or other vehicles, or injure any horse or other animal, or which might injure, cut or puncture any pneumatic tire.

Sec. 353. Discharging Firearms, Fire Crackers, Etc.—Penalty.—It shall be unlawful for any person within the limits of

Kansas City to shoot or discharge any gun, revolver, pistol or fire-arm of any kind or description; whether the same be loaded with powder and ball or shot; with loaded or blank cartridges, so called, or with any kind of explosives whatever.

It shall be unlawful for any person within the limits of Kansas City to shoot or discharge any toy cannon, loaded anvil or similar device, or any giant or cannon cracker, or any fire cracker, more than three (3) inches in length and one-half (1-2) inch in diameter.

It shall be unlawful for any person at any time, upon any of the streets, avenues, public highways, alleys or other public grounds of said City, to explode or cause to be exploded in close proximity to any person or persons or vehicle to which horses or other animals may be attached, any explosive of any kind.

Any person who shall violate any of the terms or provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for each offense.

Sec. 354. Limbs of Trees Over Sidewalks.—Every owner or occupant of any house, building, lot or premises, shall keep the shade and ornamental trees in the street, avenue or sidewalk, in front and along side of such house, building, lot or premises, trimmed so that the branches thereof shall not be lower than seven and one-half feet from the surface of such street, avenue or sidewalk.

Sec. 355. Snow, Ice and Debris on Sidewalk.—Every owner or occupant of any house or other building shall keep the awning in front or along side of such house or other building, free from snow, ice, dirt, filth, paper, rags and all rubbish of every kind.

Sec. 356. Injuring Street Lights and Hydrants—Poles.—No person shall willfully or carelessly break, injure, deface, damage or otherwise interfere with any lamp post or public lamp, gas jet or any lamp, gas jet or lamp of any kind, kept or maintained at any place for public safety or convenience, or in compliance with the provision of any ordinance, or any telegraph pole, telephone pole, fire plug or hydrant, or shall, without authority, light or extinguish any such lamp, or shall hitch or fasten any animal to any lamp post, telegraph pole, telephone pole, fire plug or hydrant.

Sec. 357. Hitching Horses on Main and Walnut Streets and Grand Avenue.—No person shall leave standing or hitched along side of the sidewalk, without the same is in charge of some competent person, any buggy, carriage, hack, wagon, cart or other vehicle drawn by horses or mules on any part of Main or Walnut Streets or Grand Avenue, from Firth Street to Twelfth Street.

Sec. 358. Sprinkling Excessively.—It shall be unlawful for any person to wet any public thoroughfare or street of Kansas City, to such extent as to cause mud, or sprinkle such street or thoroughfare more than is actually necessary to lay the dust upon said street, or use any street sprinkler upon or sprinkle any street or thoroughfare with any sprinkling cart or street sprinkler upon which Kansas City has contracted with any person or corporation for the sprinkling thereof during the term for which such contract is made, unless by permission of the Board of Public Works.

Sec. 359. Waste Water on Sidewalks.—The washing of ice, spittoons and all other things, on any sidewalk, and the throwing or flowing of waste water, or water used in washing floors or ice, or spittoons, or any other thing, on any sidewalk, is hereby prohibited.

Sec. 360. Washing Windows—Cleaning Sidewalks—Penalty.—The washing or the cleaning of the outside of windows, doors, show windows or display windows of all business houses, and the sweeping or washing of the sidewalk in front of such business houses is hereby prohibited between the hours of eight o'clock A. M. and eight o'clock P. M. The penalty for violating this section shall be not less than five dollars nor more than twenty-five dollars for each offense.

Sec. 361. Snags, Spikes and Barbed Wire Fences.—No person shall place or permit to be placed or remain, on or along any railroad or building front, or any part of any building, fence or premises, adjacent or contiguous to any street or sidewalk, any spikes or sharp pointed cresting, or any barbed wire, or any other thing dangerous and liable to snag, tear, cut or otherwise injure anyone coming in contact therewith.

Sec. 362. Sleighing Without Bells.—No person shall drive any horse or other animal, while attached to any sleigh, sled or other

vehicle upon runners, in or upon any street, avenue or alley, unless there shall be a number of bells attached to the harness of such horse or other animal or to such sled, sleigh or other vehicle, sufficient to warn persons of the approach of such animal and vehicle.

Sec. 363. **Riding on Car Platforms, Etc.**—It shall be unlawful for any person to ride upon the front or rear step or platform of any street railroad, cable or electric car within the City, or to ride suspended from the iron guards at either end of said car, while said car is in motion; *provided*, however, that this section shall not apply to regular passengers on any such car, who have paid their fare for riding in said car, or intend to pay their fare, or who shall pay such fare when so requested by the driver or conductor of said car.

Sec. 364. **Boarding or Alighting From Cars in Motion.**—No person shall get on or off, or attempt to get on or off any railroad engine or car while in motion or just before starting; *provided*, that this section shall not apply to employes upon such engine or car, or to regular passengers thereon. Nor shall any person under the age of fifteen years get on or off, or attempt to get on or off, any cable, electric, horse, or other street car while such car is in motion.

Sec. 365. **Speed on Bridges—Penalty.**—No person shall lead, ride or drive or cause to be ridden or driven, any animal, over or across any bridge or viaduct in this City at a greater rate of speed than an ordinary walk, under penalty of not less than twenty dollars nor more than five hundred dollars.

Sec. 366. **Number of Animals Driven Over Bridges—Penalty.**—No person shall at any one time, lead or drive or cause to be led or driven, more than ten head of horses, mules, asses or cattle, twenty-five head of hogs or fifty head of sheep over or across any bridge mentioned in the next preceding section, under a penalty of not less than twenty-five dollars nor more than five hundred dollars.

Sec. 367. **Limits for Drovers of Animals.**—It shall not be lawful for any person or persons to drive any loose horses or mules through any part of the City, within the limits hereinafter designated, nor to drive cattle, hogs, sheep or other animals through such part of said City in droves of five or more, at any one time; *provided*, that a drove of not more than four horses or mules, at

any one time, securely fastened together and led by one or more persons, may be taken through any of the streets of said City, in a gait not faster than a walk. The limits within which the foregoing prohibitions shall apply are: All that part of the City bounded on the north by Fourth Street, on the east by Forest Avenue, on the south by Eighteenth Street, and on the west by Penn Street, and said prohibition shall also extend to Union Avenue.

Sec. 368. Disturbing Fire Alarm Wires.—No person shall injure, cut, break, disturb, dislocate or interfere with any fire alarm wires used by the Fire Department of Kansas City, Missouri, without first obtaining permission from the Chief of the Fire Department.

Sec. 369. Blocking Streets at Fires.—Whenever a fire shall occur in this City it shall be lawful for the Chief of the Fire Department, or Acting Chief of the Fire Department, to blockade any street, avenue, alley, sidewalk or any other place, if in his judgment it is necessary to insure the efficient working of the men, hose, engine or hook and ladder apparatus under his command; and, to protect the hose of said department from injury, he is hereby authorized to require of the Chief of Police, or other officer in charge of the police station, a detail of policemen sufficient in his judgment therefor, who for the time being, shall act under the instructions of said Chief or Acting Chief of the Fire Department.

Sec. 370. Running Over Hose.—No person shall break through, or attempt to break through, the blockade mentioned in the next preceding section, or shall, at any time, run over, or attempt to run over, the hose of the fire department with an omnibus, wagon, street car, railroad car, locomotive, tender, or any cart, dray, buggy, carriage, hack, hackney carriage, coach or any other kind of vehicle.

Sec. 371. Right of Way for Fire Department.—All steam engines, hose carts, hook and ladder wagons, and other movable apparatus of the fire department, shall have the paramount right of way over and through all streets, avenues and alleys, when going to a fire, and all such steam engines, hose carts, hook and ladder wagons and other apparatus shall take and keep the right side of the street, avenue and alley, unless the same be obstructed.

Sec. 372. Interfering With Fire Department.—No person

driving or having charge of any vehicle or animal shall wilfully or carelessly permit the same to obstruct, impede or otherwise interfere with the progress or working of any such steam engine, hose cart, hook and ladder wagon, or other apparatus, of such department while the same is going to or remaining at a fire.

Sec. 373. Injuring Fire Apparatus or Other City Property.—No person shall wilfully, carelessly cut, mark or otherwise injure or deface any engine house, hose, engine or other apparatus of the fire department, or any other property of the city.

Sec. 374. Impersonating Officer.—No person shall falsely represent himself to be an officer of the United States, the state of Missouri, Jackson county or of Kansas City, or any municipal subdivision thereof, or shall, without being duly authorized, exercise or attempt to exercise any of the duties, functions or powers of any such officer or any member of the police force of this city.

Sec. 375. Resisting Officer.—No person shall hinder, obstruct, resist or otherwise interfere with any city officer or member of the police force of this city in the discharge of his official duties, or shall attempt to prevent any member of such police force from arresting any person, or shall attempt to rescue from such member of the police force, or from anyone called to his aid, any person in his custody.

Sec. 376. Penalty.—Any person violating, refusing, neglecting or failing to comply with any provision, regulation or requirement of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, where no other penalty is provided, be fined not less than one dollar nor more than five hundred dollars.

CHAPTER 10.

OFFENSES—MISCELLANEOUS.

Section.

- 377. Putting up Posters—Penalty.
- 378. Injuring Drinking Fountains.
- 379. Advertisements on Sidewalks Bridges, Poles and Public Places.
- 380. Distributing Circulars to Passers by.
- 381. Scattering Hand Bills, Etc.
- 382. Huckstering in Certain Streets Forbidden.
- 383. Gift Enterprises—Penalty.
- 384. Destroying Park Fences.
- 385. Injuring Buildings, Fences, Trees, Etc.
- 386. Injuring Trees, Shrubs, Flowers, Buds, Animals and Birds—Penalty.
- 387. Animals in Parks.
- 388. Duty of Dog Enumerator and Impounder.
- 389. Taking Animals on Sidewalks.
- 390. Horses and Vehicles on Sidewalks.
- 391. Hitching Horses to Trees.
- 392. Auctions on the Public Square.
- 393. Auctioneering Live Stock Without License.
- 394. Auctioneering Animals in Public View.
- 395. Description of Animals Sold at Auction.
- 396. Auctioneering Sick or Diseased Animals.
- 397. Bond of Licensed Auctioneer.
- 398. Removing Lamp Post.
- 399. Replacing Same.
- 400. Collecting Crowds on Street.
- 401. Running Water Over Sidewalks.
- 402. Weeds—Penalty.
- 403. Owners and Agents to Keep Lots Clean.
- 404. Duty of Sanitary Policeman.
- 405. Passing Through Funeral Procession.
- 406. Putting Building Material on River Bank.

Section.

- 407. Tying Feet of Hogs, Sheep, Etc.
- 408. Cruelty to Animals.
- 409. Overloading Teams.
- 410. Supplying Food and Water to Confined Animals.
- 411. Cruelty to Animals.
- 412. Height of Poultry Coops.
- 413. Selling or Using Animals With Glanders.
- 414. Animals Having Glanders to Be Killed.
- 415. Places Kept for Fighting Animals.
- 416. Definitions.
- 417. Wagons Spilling Rubbish, Offal, Etc.
- 418. Destroying Lawful Advertisements.
- 419. Hours for Lunch Wagons, Etc.—Penalty.
- 420. Building Fires on Paved Streets—Penalty.
- 421. Shows Near School Houses—Penalty.
- 422. Sweeping Dirt From Buildings or Sidewalks—Penalty.
- 423. Homes for Fallen Women—Location—Penalty.
- 424. Railroad Ticket Brokers—Penalty.
- 425. Non-Support of Wife or Child—Penalty.
- 426. Drip Pan on Wagons, Carts, Etc.
- 427. Charging Unreasonable Prices for Necessaries.
- 428. Bread—Penalty.
- 429. Hauling Dirt, Rock, Etc.—Penalty.
- 430. Second-Hand Dealer to Keep Register—Copy Delivered to Chief of Police—Not to Buy From Minors.
- 431. Weighing Ice—Penalty.
- 432. Traction Engines—Penalty.
- 433. Penalty.

Sec. 377. Putting Up Posters—Penalty.—No person shall stick, paint, brand, stamp or put up, or cause to be stuck, painted, branded, stamped or put up upon any house, wall, fence, walk or other public place in this city, any printed, written, painted or other advertisement, bill, notice, sign or poster without first having obtained the written permission of the owner of such house, wall, fence, walk or other public place, under penalty of not less than ten dollars nor more than five hundred dollars.

Sec. 378. Injuring Drinking Fountains.—No person shall wilfully break, destroy, deface or injure any public drinking fountain, nor place any sticks, stones, dirt or other foreign substance therein; nor shall any child or grown person play in the water thereof; nor shall any horse or other animal be hitched thereto or be allowed to stand in front thereof an unnecessary time; nor shall any person in any manner obstruct the public use thereof.

Sec. 379. Advertisements on Sidewalks, Bridges, Poles and Public Places.—No person shall stick, paint, brand, stamp, tack up or put or cause to be stuck, painted, branded, stamped, tacked or put upon any pavement, sidewalk, bridge, pole, lamp post, fence, or other structure in this city, any printed, written, painted or other advertisement, bill, notice, sign or poster.

Sec. 380. Distributing Circulars to Passers-by.—It shall be unlawful for any person to distribute handbills, circulars, cards or advertising device of whatsoever kind, to any person passing along any sidewalk or thoroughfare.

Sec. 381. Scattering Hand Bills, Etc.—No person shall scatter or distribute hand bills, circulars, cards, or other advertising device or matter by throwing the same upon the sidewalks, gutters, streets, or public thoroughfares, or upon any porch, yard, or private premises within the city limits.

Sec. 382. Huckstering in Certain Streets Forbidden.—No hawker, huckster or person who sells fruits, vegetables, flour, goods, wares, merchandise from any vehicle or hand-cart, shall carry on his business or sell or attempt to sell any of his articles, goods, wares or merchandise on any part of Main street, from Second to Twentieth, or any part of any other street nearer than one block from that part of Main street, nor upon any part of Delaware street; nor any other

street nearer than one block from Delaware street; nor upon any part of Union avenue; nor upon any part of Walnut street north of Fourteenth street; nor on any part of any other street within one block of that part of Walnut street; nor upon Grand avenue from Twelfth to Eighteenth street; nor upon any part of any other street within one block of that part of Grand avenue.

Sec. 383. Gift Enterprises—Penalty.—Whoever shall sell or offer for sale any real estate, or article of merchandise of any description whatever, or any ticket, with a promise, expressed or implied, to give or bestow, or in any manner hold out the promise of gift or bestowal of any article or thing in consideration of the purchase by any person of any article or thing, is hereby declared to be engaged in a gift enterprise and shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars.

Sec. 384. Destroying Park Fences.—No person shall tear down, remove, loosen, cut or otherwise injure or destroy, or cause to be torn down, removed, loosened, cut or otherwise injured or destroyed, any gate, plank, post, picket or fence enclosing any park or public square.

Sec. 385. Injuring Buildings, Fences, Trees, Etc.—No person shall willfully break, destroy, daub with chalk, charcoal, paint or other substance, deface or injure any house, building, shop, store or other house, or any door or windows, of any house, building, shop, store or other house, or sever therefrom, or from any gate, fence or enclosure, or any part thereof, any material of which it is formed, or shall sever from the freehold any produce thereof, or anything attached thereto, or shall pull down, injure or destroy any gate, post, railing or fence, or any part thereof, or shall cut down, lap, girdle, break or otherwise injure or destroy any fruit, ornamental or shade trees, deemed the property of another, or shall cut down, lap, girdle, break or otherwise injure or destroy any ornamental or shade tree standing or growing on any common or public ground, or any street, avenue, alley, sidewalk, park or promenade, or shall cut down, lap, girdle, break, destroy, injure or carry away any timber or trees whatsoever, being on land not his own and not the property of the United States, or shall willfully cut, break, destroy, or in any manner injure any goods, wares, merchandise or other personal property of another, or shall willfully break, injure, deface or destroy any sign, tree, box.

lamp post, hydrant or fire-plug or other property belonging to any person or corporation, by cutting, breaking, defacing, daubing with paint or other substance, hitching of horses or other animals, or in any other way or manner whatsoever.

Sec. 386. Injuring Trees, Shrubs, Flowers, Buds, Animals and Birds—Penalty.—Every person who shall, within the limits of Kansas City, willfully and without right cut, take away, destroy, injure or mutilate, or attempt to cut, take away, destroy, injure or mutilate, any fruit tree, ornamental or shade tree, shrub or vine standing, growing or being on premises in possession of another, or shall remove or attempt to remove the sod from any lot or ground belonging to another, or who shall cut down, lap, take or otherwise injure or destroy, or who shall attempt to cut down, lap, take, injure or otherwise destroy any ornamental or shade tree, shrub, flower, bulb or fruit standing or growing on any private or public ground or any street, alley, sidewalk, parked sidewalk, promenade, park or boulevard, in said city, or within any part of said city, or who shall, within said city, kill or attempt to kill, wound or attempt to wound, capture or attempt to capture any squirrel not his own, of any species or name, or who shall kill or attempt to kill, injure or attempt to injure, wound or attempt to wound, capture or attempt to capture any bird not his own, of any species, within the limits of said city or any part of said city (except the English sparrow, and pigeons shot from traps), shall be deemed guilty of a misdemeanor and to be fined in the sum of not less than five dollars nor more than two hundred dollars.

Sec. 387. Animals in Parks.—No person shall put or turn, or cause to be put or turned, any horse, mule, ass, cattle, sheep, hog or other animal into or upon any park or enclosed public square.

Sec. 388. Duty of Dog Enumerator and Impounder.—It is hereby made the duty of the dog enumerator and public impounder to seize upon and impound any such horse, mule, ass, cattle, sheep, hog or other animal found in any such park or enclosed public square, contrary to the provisions of the next preceding section of this chapter; and he shall hold any such animal as in cases of seizures or taking up where such animal is found running at large, and shall keep the same subject to sale or redemption, as in such cases.

Sec. 389. Taking Animals on Sidewalks.—No person shall lead, drive or place or cause to be led, ridden, driven or placed, any

animal or vehicle, in or upon any sidewalk or footway, otherwise than going into or out of premises owned or occupied by him or his employer.

Sec. 390. Horses and Vehicles on Sidewalks.—No person shall place, leave or stop, or cause to be placed, left or stopped, any horse, mule, ass, or other beast of burden, or any hack, carriage, wagon, cart, dray, sleigh, sled or other vehicle of any kind, in or upon or across any street crossing or footway, on any street, avenue or alley.

Sec. 391. Hitching Horses to Trees.—No person shall hitch or fasten, or cause to be hitched or fastened, any animal to any ornamental or shade tree in or upon any street, avenue, alley, sidewalk, park, public square or other public place, or to any case or box around any such tree, nor shall any person stop, stand or fasten any animal so near any such tree, case or box, that such animal can ordure, bite or injure such tree, case or box; nor shall any person climb in or upon any such tree, case or box; *provided*, that the last clause of this section shall not be so construed as to prevent the owner or agent of the property alongside thereof, from trimming such tree, or repairing such case or box.

Sec. 392. Auctions on the Public Square.—No person shall sell, offer or expose for sale, at auction or otherwise, any goods, wares or merchandise or any horses or mules, on the public square, between Fourth and Fifth streets, and between Main and Walnut streets; *provided*, that this section shall not be so construed as to prevent goods, wares, merchandise, or any horses or mules, from being sold on said public square by a county or city officer, as such, pursuant to the provisions of any law or ordinance.

Sec. 393. Auctioneering Live Stock Without License.—It shall be unlawful for any person other than an officer of the law, to sell or offer for sale any horse, mare, gelding, mule or other animal at auction unless the person so offering the same for sale, shall be a regularly licensed live stock auctioneer.

Sec. 394. Auctioneering Animals in Public View.—It shall be unlawful hereafter to sell or offer for sale at auction, any animal mentioned in the preceding section of this ordinance, unless the same shall be done in some barn, stable or covered enclosure.

Sec. 395. Description of Animals Sold at Auction.—It shall be unlawful to offer for sale any animal at auction, unless the auctioneer so offering the same for sale, shall first take a minute description of said animal in a well-bound book, which said book shall at all times be open to the inspection of the proper officers of the city.

Sec. 396. Auctioneering Sick or Diseased Animals.—It shall hereafter be unlawful to sell, or offer for sale, any sick or diseased animal; and should any such sick or diseased animal be brought for sale, the auctioneer shall at once notify the proper health or police officer of the city, giving name of party so offering such diseased animal.

Sec. 397. Bond of Licensed Auctioneer.—Before any one shall be entitled to be licensed as a live stock auctioneer, he shall deposit with the city comptroller of Kansas City, a good and sufficient bond with two securities, payable to Kansas City in the penal sum of one thousand dollars, conditioned for the faithful performance of all conditions of the four next preceding sections of this chapter, which bond shall be approved by the City Comptroller; and said party so licensed shall pay to the proper officer the sum of fifty dollars for a license for one year from the time said license is issued.

Sec. 398. Removing Lamp Post.—No person shall take up, remove, or in any way disturb any gasoline lamp or lamp post, without first having obtained a permit in writing from the city engineer.

Sec. 399. Replacing Same.—Every person taking up, removing, or in any way disturbing any gasoline lamp or lamp post as aforesaid, shall replace the same in as good condition as found.

Sec. 400. Collecting Crowds on Streets.—No person shall in or upon any street, avenue, sidewalk or alley, sell, or attempt to sell, expose, offer or cry for sale, or exhibit any goods, wares, merchandise, chattels or other personal property, to any person or persons, so as to collect a crowd upon any such street, avenue, sidewalk or alley, and thereby obstruct, prevent or hinder the free passage along the same.

Sec. 401. Running Water Over Sidewalks.—Every owner or occupant of any house, shanty or other building, shall cause the pipes conducting the water from the eaves or roof of such house, shanty or other building, to be so constructed as to prevent the spread of water over the sidewalk.

Sec. 402. Weeds—Penalty.—It shall be unlawful for the owner, tenant or occupant of any property within the limits of the city, and for any agent of such owner, tenant or occupant of such property, to allow or permit weeds to grow or remain when grown on such property, or on or along the sidewalk in front thereof; and all weeds growing on such property or along the sidewalk in front thereof shall be, by such owner, tenant or occupant or agent, cut close to the ground and so kept. Any such person who shall violate any provision of this section shall be guilty of a misdemeanor and every day such person fails, neglects or refuses to comply with this section shall constitute a separate and distinct offense.

Any person violating any provision of this section or neglecting or refusing to comply therewith, shall, upon conviction, be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00).

Sec. 403. Owners and Agents to Keep Lots Clean—Penalty.—It shall be the duty of every owner of vacant property, and of every agent or other person having control, charge, authority or management over or concerning any such property, to keep the same free and clear from any and all rubbish and filth of every kind and description, and of all water pools and ponds. Any person violating any of the provisions of this section, shall on conviction, be deemed guilty of a misdemeanor and shall be fined for each and every day or fraction thereof, he shall allow or permit any such rubbish, filth, water pools or ponds to be and remain on any such vacant property, in a sum not less than five dollars nor more than twenty-five dollars.

Sec. 404. Duty of Sanitary Policemen.—It shall be the duty of the sanitary policemen to view and inspect all vacant property within the corporate limits; and when from such inspection and viewing, or from information obtained from any source, such officer shall have knowledge that there is, on any such property, any rubbish, filth, water pools or ponds, he shall without delay enforce the provisions of the next preceding section.

Sec. 405. Passing Through Funeral Procession.—No person shall stop, pass through or otherwise interfere with any funeral procession while such procession is moving.

Sec. 406. Putting Building Material on River Bank—Penalty.—Any person who shall place or deposit, or cause to be

placed or deposited, any earth, clay or building material upon the bank of the Missouri river, or adjacent to the water's edge along said bank of the Missouri river, from Mill street to the north prolongation of Grand avenue, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars.

Sec. 407. **Tying Feet of Hogs, Sheep, Etc.**—No person shall confine calves, sheep or hogs by tying their legs, or in any way confine them in close boxes or otherwise, and no person shall have in his possession any calves, sheep or hogs so tied or confined.

Sec. 408. **Cruelty to Animals.**—If any person shall overdrive, overload, torture, torment, or cruelly neglect to provide with necessary sustenance or shelter, or shall cruelly beat or needlessly mutilate, or kill, or cause, or procure to be overdriven, overloaded, tortured, tormented, or deprived of necessary sustenance, or to be cruelly beaten, or needlessly mutilated or killed, as aforesaid, any living creature, every such offender shall be guilty of a misdemeanor.

Sec. 409. **Overloading Teams.**—No person, corporation or contractor who shall employ any teamster using a two-horse wagon to haul any material within the limits of this city, either by the load or by the day, shall require any such teamster to haul any dirt, rock, macadam or other material in loads to exceed the dimensions of weight as hereinafter set forth, viz:

A bed of dirt nine feet long, three feet wide and fourteen inches deep, inside measurement, shall constitute a load of dirt;

Two perches of stone shall constitute a load of rubble, footing, coursing or paving rock;

A bed nine feet long, three feet wide and fifteen inches deep, inside measurement, shall constitute a load of crushed rock;

Two tons of coal shall constitute a load of coal;

Two thousand feet of white pine lumber shall constitute a load of white pine lumber;

Fifteen hundred feet of yellow pine lumber shall constitute a load of yellow pine lumber;

One thousand feet of hard wood lumber shall constitute a load of hardwood lumber;

Nine hundred brick shall constitute a load of brick;

Three hundred and twenty-four cubic feet of sand shall constitute a load of sand.

Sec. 410. Supplying Food and Water to Confined Animals.—Any person who shall keep or use, or cause to be impounded in any pound or other place, any creature, shall supply to the same during confinement, a sufficient quantity of good and wholesome food and water; and in default thereof, shall, upon conviction, be adjudged guilty of a misdemeanor.

Sec. 411. Cruelty to Animals.—No person shall burn, sear or cut the inner part of or confine the mouth of any calf, by rope twine or any kind of muzzle, and no person shall in any manner tie or confine by rope, twine or otherwise, the feet of any calf, sheep, lamb or swine, or poultry which may be brought to or exposed in the city for sale.

Sec. 412. Height of Poultry Coops.—All coops or boxes in which turkeys or geese are kept for sale, shall be of not less than twenty-four inches clear height on the interior, and all coops or boxes in which chickens are kept for sale, shall be of not less than fifteen inches clear height on the interior, and no person shall keep chickens or turkeys in coops other than of the height herein required. If any person shall keep, have kept, or permit to be kept, any turkeys, chickens or geese for sale, in any box or coop which shall be lower on the interior than is prescribed in the preceding section of this ordinance, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars.

Sec. 413. Selling or Using Animals With Glanders.—Any person who shall sell or offer for sale, or use, or expose for sale, or who shall cause or procure to be sold or offered for sale, or use, or to be exposed for sale, any horse or other animal having the disease known as glanders, or farcy or any other contagious or infectious disease, dangerous to human life, or past recovery, shall be guilty of a misdemeanor.

Sec. 414. Animals Having Glanders to be Killed—Penalty.—Every animal having glanders or farcy, shall at once be deprived of life by the owner or person having charge thereof, upon discovery or information of its condition; and any such owner or person omitting

or refusing to comply with the provisions of this section, shall be guilty of a misdemeanor, and on conviction, be fined not less than fifty dollars nor more than five hundred dollars.

Sec. 415. Places Kept for Fighting Animals, Etc.—Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, and every person who shall encourage, aid, or participate therein, as spectator, umpire or judge, or who shall permit or suffer any place to be so kept or used, shall upon conviction thereof, be adjudged guilty of a misdemeanor.

Sec. 416. Definitions.—In the six next preceding sections of this article, the singular shall include the plural; the words “animal, or dumb animal,” shall be held to include every living creature; the words “torture, torment or cruelly” shall be held to include every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 417. Wagons Spilling Rubbish, Offal, Etc.—Every person engaged in hauling or removing earth, sand, rock, manure, rubbish, offal or other material, shall have boxes on his wagon, cart or other vehicle, and the same so constructed of good, tight side, end and bottom boards, so as to prevent the dropping, spilling or wasting of such sand, earth, rock, manure, rubbish, offal or other material in or upon any street, avenue or alley, and no person shall drop, waste, spill or deposit any such earth, sand, rock, manure, offal, rubbish or other material, in or upon any street, avenue or alley.

Sec. 418. Destroying Lawful Advertisements.—No person shall willfully or carelessly tear, pull or cut down any poster, handbill, card or other advertisement of any lawful business, trade or occupation, posted upon any bulletin board, wall or other place; *provided*, that such poster, handbill, card or other advertisement is put up in accordance with the law and ordinances.

Sec. 419. Hours for Lunch Wagons, Etc.—Penalty.—It shall be unlawful for any lunch wagon, when drawn by one or more horses or animals, to stand upon any street, avenue, highway or alley, except between the hours of seven o'clock p. m. and four o'clock a.

m., and no lunch wagon, pop corn wagon, candy wagon or lemonade wagon shall stand on or along any street, avenue, highway or alley within the distance of seventy-five (75) feet from any street intersection.

Any person, firm or corporation who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars for each and every offense.

Sec. 420. Building Fires on Paved Streets—Penalty.—No person shall burn any combustible matter of any kind on any asphalt or creosote block paved street or alley, within the limits of Kansas City.

No person shall throw or place any coal oil or other substance likely to injure the pavement upon any paved street or alley within the limits of Kansas City.

Any person who violates any provision of this section shall be guilty of a misdemeanor and shall upon conviction thereof, be fined in a sum not less than one dollar (\$1.00), nor more than fifty dollars (\$50.00).

Sec. 421. Shows Near School Houses—Penalty.—No museum, menagerie, circus, show or exhibition shall be located, nor shall any public performance thereof be held within five hundred (500) feet of any school building in Kansas City, Missouri.

Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty dollars (\$50.00), nor more than two hundred dollars (\$200.00). Every day that any museum menagerie, circus or show shall be opened to the public, and every performance or public exhibition thereof shall constitute a separate and distinct violation of this section.

Sec. 422. Sweeping Dirt From Buildings or Sidewalks—Penalty.—Hereafter no person shall sweep any dirt or litter of any kind whatsoever out of any building or private premises or onto any sidewalk or sidewalk space or into any street, alley, avenue or public highway. All sidewalks and sidewalk space shall be by the owners or occupants of the property fronting on same, kept clean from all dirt or litter.

Any person violating this section shall be fined in a sum not less than five (\$5.00) dollars, nor more than twenty-five (\$25.00) dollars.

Sec. 423. Homes for Fallen Women—Location—Penalty.—No private reformatory, institution, rescue home or home for fallen women other than such as may be conducted by the city, shall be located, erected, constructed or maintained within two hundred (200) feet from any building used exclusively for residence purposes.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty (\$50.00) dollars, nor more than three hundred (\$300.00) dollars for each and every offense, and each day he shall continue to violate the provisions of this section shall be deemed a separate offense.

Sec. 424. Railroad Ticket Brokers—Penalty.—It shall be unlawful for any person or persons, partnership or corporation, or any officer, agent or servant of any corporation for and in its behalf, now or hereafter engaged in the business of railroad ticket brokers, with or without license therefor, in Kansas City, Missouri, to buy, sell or otherwise acquire or deal in or solicit the purchase or sale of any railroad or railway passenger ticket or other evidence of passenger transportation bearing a date subsequent to the date of the approval of this ordinance by the mayor, which is, by its terms, plainly expressed on its face, a mileage, excursion or commutation ticket, where it appears upon such ticket that the same was issued and sold below the regular scheduled rate, under contract with the original purchaser entered upon such ticket and signed by such original purchaser, that such ticket is non-transferrable and void in the possession of any other person than the original purchaser thereof.

Each and every person or persons, partnership or corporation, now or hereafter engaged in and conducting the business of railroad ticket brokers in Kansas City, Missouri, shall be required to give a certificate to each and every purchaser of railroad or railway tickets, or other contracts of transportation, stating the date upon which such tickets or contracts of transportation were sold, the starting point and destination provided for by the same and the amount paid therefor, and such certificate shall be signed by such person or persons partnership or corporation, or some one in their respective offices for and in their behalf. The signing hereby required may be done by stamp. Any one violating the provisions of this section shall upon conviction

be fined not less than fifty dollars nor more than one hundred dollars for each and every such offense.

Sec. 425. Non-Support of Wife or Child—Penalty.—Every able-bodied man who shall fail, neglect or refuse to support his wife or minor child or children shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five dollars nor more than five hundred dollars.

Sec. 426. Drip Pan on Wagons, Carts, Etc.—No person shall engage in hauling oil or petroleum in tanks cans, or other receptacles, on wagons, carts or vehicles which shall not have drip pans attached to such wagon, cart or other vehicle; said drip pans to be so constructed and placed underneath the faucet, spigot, or other opening of said tank, can or other receptacle where a leakage or dripping is likely to occur as to prevent the leaking, dripping, spilling, and running of oil or petroleum in or upon any street, avenue, boulevard, or alley.

Sec. 427. Charging Unreasonable Prices for Necessaries.—It shall be unlawful for any person to charge, receive or demand from any other person, an unreasonable price or sum for the sale or use of water, or any necessary food for man or beast.

Any person who shall charge, receive or demand from any other person an unreasonable price for the sale or use of water, or any necessary food, shall be guilty of a misdemeanor; and, upon conviction, fined not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00).

Sec. 428. Bread—Penalty.—All bread baked, offered or exposed for sale in this city shall be wholesome and be made of good and wholesome flour or meal and sold by avoirdupois weight.

Each and every loaf of bread offered or exposed for sale, there shall be affixed upon it a label on which shall be plainly printed the name of the maker and the actual avoirdupois weight of said loaf of bread and in no case shall a loaf of bread within twenty hours after being baked weigh less than is represented by the label on said loaf.

It shall be lawful for the chief of police or any member of the police department, the license inspector, or any health officer of said city to enter in the daytime into any house, store, warehouse or other buildings where any bread is stored or deposited or offered for sale, and also to stop, detain and examine any person or persons, wagon or

other vehicle carrying bread, and to search for, inspect, view try and weigh all bread, or any part that shall be found there, and if in any such search there shall be found any bread made in violation or contrary to any of the provisions of this section any of the above named officers may seize such bread and shall forthwith enter complaint before the municipal court of said city against the person or persons guilty of such violation.

Whenever any bread shall have been seized for the violation of any of the provisions of this section the same shall be taken immediately to the office of the chief of police, and there deposited and kept to be used on the trial of the person or persons against whom complaint is made, and if he, she or they shall be convicted, such bread shall be retained by the chief of police until the fine, if any, shall have been imposed and the cost of the suit shall have been satisfied, provided, that bread made of unwholesome materials shall not in any case be returned to the owner, but shall be destroyed.

The provisions of this section shall not apply to biscuits, buns, rolls or fancy bread weighing less than a half of a pound, or to coffee cake or to any bread to be sold for shipment to other towns or cities and not for sale in said Kansas City.

Any person, firm or corporation, violating, failing or refusing to comply with any of the provisions of this section, or by selling or offering for sale bread of less weight than the weight printed on the label of the loaf to which it is affixed, shall be deemed guilty of a misdemeanor, and upon conviction he shall be fined not less than \$5.00 nor more than \$500.00 for each and every offense.

Sec. 429. Hauling Dirt, Rock, Etc.—Penalty.—No person, firm or corporation shall deposit, or cause to be deposited on any street, alley or public highway of this city, or shall move, or cause to be moved on, along or across any such street, alley or public highway, any dirt, earth, rock, clay, sand, shale, debris or rubbish, or any material, for the purpose of grading or making any excavation, or fill on either private property or public work, without first obtaining a permit therefor from the Commissioner of Street Cleaning. The application for such permit shall be signed by the person, firm or corporation, or his or their duly authorized agent, desiring to do the work therein contemplated, and shall state in plain terms the location and nature of the work to be performed thereunder and the probable time of its completion.

Whenever any person, firm or corporation to whom any permit

has been issued under authority of this section, shall be notified by the Commissioner of Street Cleaning to remove any dirt, earth, rock, clay, sand, shale, debris, rubbish or other material deposited, spilled or dropped on any street, alley or public highway in the performance of the work contemplated in such permit, they shall remove the same or cause the same to be removed and such street, alley or public highway be restored to its former condition to the satisfaction of said superintendent, within twenty-four hours; and in default thereof the permit theretofore granted to such applicant shall thereby become void.

Any person, firm or corporation failing to remove any dirt, earth, rock, clay, sand, shale, debris, rubbish or other material deposited, spilled or dropped on any street, alley or public highway in the performance of the work contemplated in any permit issued in pursuance of this section, and to restore such street, alley, or public highway to its former condition to the satisfaction of the Commissioner of Street Cleaning within twenty-four hours after the same has been deposited, spilled or dropped as aforesaid; or who shall move or cause to be moved on any street, alley or public highway, any dirt, earth, rock, clay, sand, shale, debris, rubbish or other material for the purpose of making any excavation or fill, without first obtaining a permit, or after such permit has become void as hereinbefore prescribed, shall be deemed guilty of a misdemeanor, and on conviction shall be subject to a fine of not less than ten dollars nor more than one hundred dollars.

Sec. 430. Second Hand Dealer to Keep Register—Copy Delivered to Chief of Police—Not to Buy From Minor.—Every second hand dealer, junk dealer, buyer of old iron, other second hand metals, or other second hand articles or goods, and buyer of second hand or old gold or silver or diamonds, or of other second hand jewelry shall keep at his place of business a register in which he shall enter at the time of every purchase of any such article in writing a minute description of all property taken, purchased or received by him in the conduct of his said business (including any number that may be in or upon any article), together with the time and name, age and place or residence (giving street and number if within the city) of the person selling or leaving said property, also the amount paid for said property. He shall make such entries within one hour after the receipt or purchase of such property. Every entry shall be made in ink and shall not in any manner be erased, obliterated or defaced. It shall be the further duty of every such dealer or buyer to make out

and deliver to the chief of police, every day, before the hour of 12 m. a legible and correct copy from said register of all such property received or purchased during the preceding day, together with the time when received or purchased and a description of the person or persons from whom the same was purchased.

Said register shall at all times be kept open to the inspection of the marshal of Jackson county, Missouri, or his deputies, any officer of the police force of the city, the prosecuting officer of the city and the prosecuting attorney of said Jackson county and anyone authorized in writing for that purpose by the chief or captains of said police force. Which authority shall be exhibited to such dealer or buyer.

That every dealer shall put in a suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters; that such shop and all articles of merchandise therein, may be at all times examined by any commissioned policeman of Kansas City; that no article purchased or received by such keeper shall be sold until at least one (1) week from the date of its purchase or receipt has elapsed.

No such dealer or buyer shall directly or indirectly purchase or receive such article or property of or from a minor or any stolen property or property which from any cause he may have reason to believe or suspect cannot be rightfully or lawfully sold by the person offering it.

Any such dealer or buyer who shall violate, fail, neglect or refuse to comply with any of the provisions, regulations or requirements of this section shall be deemed guilty of a misdemeanor.

Sec. 431. Weighing Ice—Penalty.—That hereafter it shall be the duty of every person, firm or corporation engaged in the sale or delivery of ice within the limits of Kansas City, to provide means of weighing such ice at the place of delivery, and, upon demand, to actually weigh the same in the presence of the purchaser thereof.

Any person, firm or corporation who shall neglect, fail or refuse to provide means for weighing ice, or to weigh the same in the manner required by this section shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in a sum not less than five dollars nor more than twenty-five dollars.

Sec. 432. Traction Engines—Penalty.—No traction engine, the wheels of which are provided with lugs or other protuberances, such as are injurious to paved streets shall be permitted to be drawn

or propelled upon a paved street, alley or public highway within the city limits, except in that territory in Kansas City bounded on the south by Nineteenth street or the prolongation thereof easterly; bounded on the east by Bluff street, Franklin street, Holly street and Allen avenue; on the north by the Missouri river, on the west by the State Line; provided, however, that no traction engine, the wheels of which are provided with lugs or other protuberances, such as are injurious to the paved streets shall be permitted to be drawn or propelled upon or along Wyoming street from the north line of Fourteenth street to Twelfth street, or upon Ninth street from the State Line to Santa Fe street.

Any person, firm or corporation violating the provisions of this section, shall, upon conviction, be punished with a fine of not less than one dollar (\$1.00) and not exceeding one hundred dollars (\$100.00).

Sec. 433. Penalty.—Any person violating any provision of this chapter, or neglecting or refusing to comply therewith shall, upon conviction, be punished by a fine of not less than one dollar nor more than five hundred dollars, where no other penalty is specially provided.

CHAPTER 11.

OFFICERS.

Article.

- I. Mayor.
- II. Judge of Municipal Court.
- III. Auditor.
- IV. Treasurer.
- V. City Clerk.

Article.

- VI. City Counselor.
- VII. City Comptroller.
- VIII. Clerk of Municipal Court.
- IX. City Chemist.
- X. Miscellaneous Provisions.

ARTICLE I.

MAYOR.

Section.

- 434. Installation of Mayor.
- 435. Duties.
- 436. Riots.
- 437. Paupers, Idlota, Etc.
- 438. Leaves of Absence.

Section.

- 439. Special Council Meetings.
- 440. May Remit Fines.
- 441. Compensation of Mayor Pro Tem.
- 442. Secretary to Mayor — Appointment—Salary.

Charter, Art. IV, Secs. 1, 2, 3, 4, 5, 6, 7.

Sec. 434. Installation of Mayor.—The mayor shall take the oath of office, to be administered by the City Clerk or other officer authorized to administer oaths, in the presence of the Common Council and so many citizens as may desire to be present, on the second Monday after the day of his election, at the hour of twelve o'clock noon.

Sec. 435. Duties.—It shall be the duty of the mayor, in addition to the duties imposed upon him by the City Charter, to exercise a general supervision over all the departments of the City Government, and see that the duties appertaining to the various city officers are properly performed. He may call upon any officer for information in relation to the business of his office, and shall report to the Common Council all neglect of duty on the part of any city officer.

Sec. 436. **Riots.**—In case of any riot, rout or unlawful assembly, the Mayor shall have power to direct the action of the police force of the city, to call to his aid all citizens in suppressing the same, and, in case of urgent necessity, to employ special police. He shall have power to make arrests in cases where he shall have good reason to believe that offenses have been or are about to be committed, and to summon citizens to his aid in making such arrests.

Sec. 437. **Paupers, Idiots, Etc.**—The mayor shall have authority to direct and aid in removal of paupers from the city, and in cases of extreme necessity to provide for their temporary support. He shall have power to make provision for the temporary keeping and protection of idiots and insane persons, when unaccompanied by proper guardians, and shall take immediate steps to have them transferred to the proper authorities. All expenses incurred by the Mayor in performing the duties imposed by this section shall be reported to the Common Council.

Sec. 438. **Leave of Absence.**—The mayor may in his discretion grant temporary leave of absence to any officer upon good cause shown, and no officer shall leave the city, for any cause, without such leave of absence from the Mayor under penalty of a forfeiture of his office.

Sec. 439. **Special Council Meetings.**—The mayor shall have power to call special meetings of the Common Council, by proclamation issued and delivered to the City Clerk, which proclamation after delivery to the City Clerk, and prior to such meeting, shall be by him published in an issue of the newspaper doing the city printing at the time.

Sec. 440. **May Remit Fines.**—The mayor is hereby authorized, upon good cause shown, to remit all fines, forfeitures and penalties accruing from or imposed for the violation of any city ordinance.

Sec. 441. **Compensation of Mayor Pro Tem.**—The compensation of the acting Mayor of Kansas City, during the absence of the Mayor from the city, or when from any cause he is unable to perform his official duties, is hereby fixed at the sum of ten dollars for each and every day such acting Mayor shall perform the official duties of Mayor; such compensation to be paid in the same manner and time as employees of Kansas City are now paid.

Sec. 442. **Secretary to Mayor—Appointment—Salary.**—There shall be a secretary to the Mayor who shall be appointed by the Mayor and shall serve until his successor is appointed. The salary of the secretary to the Mayor shall be such as is now or may hereafter be provided by ordinance.

ARTICLE II.

JUDGE OF MUNICIPAL COURT.

| Section. | Section. |
|--|--|
| 443. Sessions of Court. | 456. Policemen as Witnesses. |
| 444. Judge of Municipal Court Pro Tem. | 457. Record of Municipal Court. |
| 445. Arrests. | 458. Execution for Fines. |
| 446. Trials. | 459. Proceedings on Execution. |
| 447. Bail. | 460. Sales Under Execution. |
| 448. Forfeiture of Bond. | 461. Appeals by Defendant. |
| 449. Subpoena for Witness. | 462. Appeals by City. |
| 450. Contempts. | 463. Satisfaction of Judgment. |
| 451. Proceedings. | 464. Workhouse Report to Court. |
| 452. Separate Trials. | 465. Witness Fees and Cost of Transcripts. |
| 453. Dismissal. | 466. Trial Dockets. |
| 454. Prosecuting Witness Liable for Costs, When. | 467. Judge Signing Records. |
| 455. Prosecuting Witness May Dismiss. | 468. Judge's Report to the Comptroller. |

Charter, Art. IV, Sec. 10.

Sec. 443. **Sessions of Court.**—That all sessions of the Municipal Court of Kansas City, when the matter pending before said court shall be in action for the collection of taxes or the enforcement of special tax bills or in proceeding for taking and damaging private property for the establishment of bill board restrictions or other easements and for ascertaining damages caused by change of grade or other exercise of the power of the eminent domain, shall be held in the Lower House Council Chamber on the fourth floor of the City Hall, at the southeast corner of Fourth and Main Streets, in Kansas City, Jackson County, Missouri. The sessions of said court for the hearing of the cases hereinbefore enumerated shall be held from day to day for such time as may be necessary for the disposal of the business pending before said court. The sessions of the said Municipal Court for the purpose of disposing of all other matters of which it has jurisdiction shall be held in the basement of the City Hall Building at the southeast corner of Fourth and Main Streets, in Kansas City, Missouri, and the Judge of the Municipal Court shall attend regularly

at such place to hear and determine any complaint or cause that may be brought before him, or for the performance of any of the duties of his office. Said court shall be open at all times for the transaction of such business as may be brought before it.

Sec. 444. **Judge of Municipal Court Pro Tem.**—In case such judge is sick or absent from the city, he, or upon his failure to do so, the Mayor shall, in writing, designate some justice of the peace, resident within the city, who shall perform the duties of such judge. Such designation shall be filed in said court, and a minute thereof entered upon the records.

Sec. 445. **Arrests.**—Whenever complaint in writing, on the oath or affirmation of any person competent to testify against the accused, or information in writing, by the prosecuting officer of the city, shall be made to the court, that any violation of any ordinance or other regulation of the city has been committed, for the breach of which any fine or penalty is imposed, the Clerk of the Court shall forthwith issue a warrant for the arrest of the offender, which warrant shall be directed to the Chief of Police, and shall be executed by him, or any other officer or member of the police force.

Sec. 446. **Trials.**—Whenever any person shall be brought before said court for violation, failure, neglect or refusal to comply with any provision, regulation or requirement of any ordinance, he shall be tried forthwith, unless said court, in his discretion, continue the cause; *provided*, that in no event shall any such cause be continued for a period of time longer than ten days.

Sec. 447. **Bail.**—Any person arrested for violation, failure, neglect or refusal to comply with any provision, regulation or requirement of any ordinance, may be admitted to bail, by executing a bond to Kansas City, with good and sufficient security, to be approved by the Judge of the Municipal Court, Chief of Police, Captain of Police or other officer in charge at the time, of any station house, in a sum not less than ten dollars nor more than one thousand dollars, conditioned that said person will appear upon the day named therein, not longer than ten days from the date of said bond, before the Municipal Court, and await his trial upon the charge against him; and every bond so taken shall be forthwith filed with the Clerk of the Municipal Court by the officer approving and taking the same; *provided*, that no attorney-at-law, police officer, policeman, constable or

his deputy, or any officer of Kansas City whatever, elected or appointed, shall be taken as security upon any bond provided for in this or the next preceding section.

Sec. 448. Forfeiture of Bond.—If the defendant fail to appear, according to the condition of any bond, or having appeared, shall leave the court without awaiting his trial, the court shall forfeit his bond, and the clerk thereof shall issue a *scire facias* to the securities to appear at a time named therein, not less than five nor longer than ten days thereafter, to show cause why said bond should not be forfeited; and if said securities fail to appear, or, appearing, fail to show good cause why said bond should not be forfeited, the court shall render judgment against defendant and his securities for the amount of penalty in said bond, which judgment shall be enforced and the amount thereof collected as judgments before justices of the peace in civil cases; but the forfeiture of such recognizance may at any time be set aside by the court on the defendants appearing or being brought into court within ten days after such forfeiture, and showing good cause for the same, and paying all costs that have accrued.

Sec. 449. Subpoena for Witnesses.—The court shall compel the attendance of witnesses by attachment, in case they fail to appear when properly subpoenaed, and may punish them by fine or imprisonment, or both, for contempt of court, in the manner and to the extent prescribed in the next succeeding section.

Sec. 450. Contempts.—The court shall have power to punish all persons guilty of contempt of court, by a fine of not more than fifty dollars, or by imprisonment in the city prison or the Jackson county jail, in this city, for a time not to exceed ten days, or by both such fine and imprisonment; and may commit such person to said city prison or said jail until such fine is paid and the judgment of the court satisfied; *provided, however*, that every warrant of commitment shall specifically set forth the facts constituting the contempt.

Sec. 451. Proceedings.—All cases triable before such court shall be proceeded with in the same manner as trials before justices of the peace for misdemeanors. If the court shall find the defendant guilty, said court shall fix the punishment according to law, and the judgment shall be for fine assessed together with costs

and commitment, either or both as may be required. If the finding be that defendant is not guilty, the judgment shall be for the defendant; such judgment shall be entered on the record of said court.

Sec. 452. Separate Trials.—Persons jointly charged shall have a separate trial if they demand it, before the trial is commenced.

Sec. 453. Dismissal.—Whenever a defendant is proved guilty of a violation of ordinance, which violation is in the judgment of the court of a trivial nature, said court may in his discretion dismiss such action and discharge the defendant on payment of costs.

Sec. 454. Prosecuting Witness Liable for Costs, When.—When a defendant is acquitted, the informant or prosecuting witness may be adjudged to pay the costs, if it appear to the court that the prosecution was with malice or without probable cause; and in case any informant or prosecuting witness (other than a city officer), at whose instance or upon whose information any person shall be arrested, shall fail or neglect to appear and prosecute the same, at the time set, after having been duly subpoenaed, the court may in its discretion, discharge the defendant, and adjudge that said informant or prosecuting witness pay the costs that have accrued in the case, and such judgment for costs shall be collected as other judgments of the court.

Sec. 455. Prosecuting Witness May Dismiss.—When any person (other than a city officer) shall have caused the arrest of another for violation of any ordinance, and the offense charged shall have affected solely, or principally, the person causing the arrest, the latter may, in the discretion of the court, when the case shall be called for trial, withdraw the charge on payment of costs.

Sec. 456. Policemen as Witnesses.—All policemen and officers of the police force shall, without being subpoenaed, attend as witnesses against any person whom they shall have arrested; and if they fail or neglect to appear at the time of the trial, they may be attached and punished for contempt of court as witnesses subpoenaed.

Sec. 457. **Record of Municipal Court.**—The record of the Municipal Court shall show the title of the case, the nature of the offense charged in the complaint, a brief statement of the proceedings had in the cause, the judgment, amount of fine, if any, and the costs, the separate items of which shall be stated.

Sec. 458. **Execution for Fines.**—Upon the rendition of any judgment of the court imposing a fine or penalty, if the defendant do not immediately pay the same, with all costs accrued thereon, the clerk shall forthwith cause execution to be issued against the defendant, for the amount of such fine or penalty and costs, in the following form as near as may be:

State of Missouri,
ss.
County of Jackson,

City of Kansas City,
To the Chief of Police of Kansas City, Greeting:

Whereas, Kansas City has obtained judgment in the Municipal Court of Kansas City, against.....for violation of an ordinance of said city, for the sum of.....dollars, together with costs, in the sum of.....dollars. These are, therefore, to command you to levy the said debt and costs of the goods and chattels of said defendant, within Kansas City, and expose the same for sale agreeably to law; and for want of sufficient property whereon to levy said debt and costs, you are hereby commanded to take the body of said defendant into your custody, and deliver said defendant into the custody of the superintendent of the workhouse of Kansas City, who is hereby commanded to receive said defendant and him safely keep, until said debt and costs have been paid by said defendant's labor, according to the laws of Missouri and the ordinances of Kansas City, or until said defendant shall be otherwise discharged by due course of law; *provided*, that said defendant shall not be detained in said workhouse longer than twelve months. You are also commanded to make return of this execution within ninety days from the date of the same, with your return endorsed thereon, stating how you have executed the same.

Given under my hand, at office in Kansas City, this
day of, 19.....

.....
Clerk of the Municipal Court.

Sec. 459. Proceedings on Execution.—Upon receiving such execution, the Chief of Police shall immediately take the defendant into custody, and if said defendant do not before three o'clock in the afternoon of the same day, satisfy said execution, either by paying the same in money, or by discovering to the Chief of Police sufficient goods and chattels, the property of the said defendant, whereupon to levy said execution for debt and costs, the Chief of Police shall, without delay, deliver said defendant to the superintendent of the workhouse.

Sec. 460. Sales Under Execution.—Upon levying on property to satisfy such execution the Chief of Police shall sell the same on the public square, that is, the square between Main and Walnut Streets and between Fourth and Fifth Streets, in this city, upon giving like notice, as is required by law in making sales under execution issued from justices of the peace in civil cases; and all sales shall be conducted in the same manner as sales under such execution issued from justices of the peace.

Sec. 461. Appeals by Defendant.—Any defendant wishing to appeal from the judgment of the court and not being ready to enter into bond and perfect his appeal, may deposit with the Chief of Police the amount of the fine and costs imposed, which shall be received by said Chief of Police as collateral security for such fine and costs, until an appeal is perfected, when it shall be returned to the defendant; but if the defendant does not perfect his appeal within ten days from the date of judgment, said collateral shall not be returned to defendant, but shall be applied by said Chief of Police to satisfy the fine and costs imposed on such defendant, and paid over forthwith to the clerk of the court.

Appeals may be allowed defendants upon their giving like bond and affidavit, and within the same time, as is required on appeals from justices of the peace in trials for misdemeanors.

Sec. 462. Appeal by City.—Upon judgment of acquittal of any defendant by the court, if the prosecuting officer of the city deems it for the best interest of the city that such case be appealed, said attorney shall make and sign the necessary affidavit and the Mayor shall execute an appeal bond in the name of the city, in an amount sufficient to secure costs in the appellate court, but no security shall be required on such bond.

Sec. 463. Satisfaction of Judgment.—Whenever any judgment shall be satisfied by payment of the fine and costs by the person convicted, before the issuing of any execution or commitment or whenever any execution shall be returned satisfied, by the Chief of Police or upon the certificate of the Mayor, delivered to said Police Judge, that such fine and costs have been remitted, or upon the certificate of the Superintendent of the Workhouse that such fine and costs have been paid in work or money, or both, by the party convicted, the clerk shall enter satisfaction upon the margin of his record opposite such judgment.

Sec. 464. Workhouse Report to Court.—It shall be the duty of the Superintendent of the Workhouse at the end of each calendar month, to make and deliver to the court a certificate, signed by himself, showing satisfaction of all fines and costs against all persons committed to his custody, by payment in money or work, or both, or any escape from his custody.

Sec. 465. Witness Fees and Cost of Transcripts.—Witnesses shall each be allowed fifty (50) cents per day for each day's attendance upon the Police Court, if claimed as soon as judgment is rendered in the case, which shall be taxed as costs; *provided*, that no costs of any kind whatever shall be taxed against or paid by the city in any case tried before such court. For making out a transcript in any case of appeal, the clerk shall charge the sum of two dollars, which, in case it is collected of the defendant or his bondsmen in the appellate court, shall be paid into the City Treasury; *provided*, that this section shall not be so construed as to make the city liable in any event for the said sum of two dollars.

Sec. 467. Juror's Fees.—Each juror in condemnation and grading cases pending before the Municipal Court of Kansas City, shall receive two dollars (\$2.00) per day for every day he may actually serve in discharging the duties imposed upon him by law.

Sec. 466. Trial Dockets.—The judge shall keep a docket or memorandum book on his desk during the trial of all cases, in which he shall enter the number of each case and the disposition of the same.

Sec. 467. Judge Signing Records.—The judge shall sign his name to that part of the records of the clerk of the court which

shows the nature of each complaint, together with the proceedings had thereunder, the disposition thereof, the punishment assessed, if any, and amount of fine imposed, which signing shall not be later than the day following that on which such proceedings were had.

Sec. 468. **Judge's Report to the Comptroller.**—On the first day of each month the judge shall file with the Comptroller a statement of the total number of cases in his court during the month next preceding said day, the disposition made of them and the aggregate amount of fines unpaid thereunder.

ARTICLE III.

AUDITOR.

Section.

469. Duties.

470. Countersigning Warrants.

471. Drawing Warrants.

Section.

472. Balancing Accounts.

473. Settlements and Reports to Auditor.

Charter, Art. IV, Sec. 23.

Sec. 469. **Duties.**—It shall be the duty of the City Auditor, in addition to the duties imposed on him by the City Charter:

First: To be the general accountant of the city, and, as such, to receive and preserve in his office all city account books, vouchers, documents and papers relating to the accounts and contracts of the city, its revenue, debt and fiscal affairs, whether said accounts are between the city and any officer thereof, or said accounts and contracts are between the city and any person or body corporate, except where said books, vouchers or documents are, by Charter or ordinance, placed in the custody of some other officer.

Second: To keep a day-book, journal and ledger, in which the accounts of the city shall be kept by double entry. The city shall be represented in said books by the term "City Revenue," and all moneys coming into the City Treasury shall be entered upon the debit side of "City Revenue" account, with the sources specified from which said revenue is derived; and all appropriations shall be entered upon the credit side of said account, with the object stated for which said appropriation is made.

Third: To keep, in proper books, the accounts between the city and all officers charged with the collection or custody of public moneys; entering all receipts and payments, from what source derived, and on what account paid.

Fourth: To keep a record of all warrants drawn upon the City Treasurer, specifying the number, date, amount and to whom payable.

Fifth: To keep an account of all bonds and obligations of the city, date of issue, time when principal and interest become due, rate of interest, and to whom payable, giving a registered number for each bond and coupon.

Sixth: To examine and audit and adjust all accounts, claims and demands for or against the city, first submitting the same to the auditing committee to be passed upon.

Seventh: To act as chairman of the auditing committee, all meetings of which for the purpose of passing upon claims against the city, shall be held in the office of the City Auditor.

Sec. 470. **Countersigning Warrants.**—Every warrant, drawn by the City Auditor upon the City Treasurer, shall, before becoming valid, be presented to the City Comptroller to be countersigned, as required by the City Charter.

Sec. 471. **Drawing Warrants.**—The City Auditor shall not draw a warrant on the City Treasurer in favor of any person indebted to the city, except for the amount due such person in excess of his indebtedness, nor in favor of any officer who is in arrears to the city.

Sec. 472. **Balancing Accounts.**—At the close of the last day of each month the City Auditor shall strike a balance upon each account between the city and all persons or bodies corporate with which it has accounts, preparatory to making his monthly report to the City Comptroller, as required by ordinance.

Sec. 473. **Settlements and Reports of Auditor.**—The City Auditor shall make monthly settlements with the Finance Committee of the Common Council, and shall, at such settlement, surrender to said joint committee all bonds, coupons, warrants and other evidence of debt against the city that have been cancelled and returned to him by the City Treasurer or other officer, taking from said joint committee duplicate receipts therefor, one to be delivered to the City Comptroller and the other retained, and three members of said joint committee shall constitute a quorum.

The City Auditor shall, on the first day of each month, make

a detailed report to the City Comptroller of the business of his office during the month preceding, showing the amount and different kinds of cancelled indebtedness, and the vouchers received by him from the City Treasurer during the month, together with such other matters and facts as the Comptroller may require.

ARTICLE IV.

TREASURER.

Section.

- 474. Duties.
- 475. Report of City Treasurer.
- 476. Cancelled Indebtedness.
- 477. Payment to Treasurer by City Officers.
- 478. Notary Public in Treasurer's Office.

Section.

- 479. Proposals for City Depository.
- 480. Meeting to Select Same and Bond.
- 481. Treasurer Must Deposit Daily.
- 482. Bond of City Treasurer.

Charter, Art. IV, Secs. 8, 17, 18, 19, 20.

Sec. 474. Duties.—It shall be the duty of the City Treasurer in addition to the duties imposed upon him by the City Charter :

First: To keep, in proper books, by double entry, a full and accurate account of all the moneys received and disbursed by him in behalf of the city, specifying the time of receipt and disbursement, from whom received and to whom disbursed, and on what account received and disbursed, and how paid.

Second: To cancel all bonds, coupons, warrants and other evidences of debt against the city, whenever paid by him, by writing or stamping across the face thereof the words, "Paid by the City Treasurer," with the date of payment written or stamped thereon.

Third: To keep a separate account of each fund or appropriation, and the debits and credits belonging thereto.

Fourth: To deliver receipts as City Collector, for all moneys paid to him for licenses, specifying when and by whom paid and on what account.

Fifth: To make settlement with the City Auditor, at the close of each month, of the amounts received and paid out during the month, and, at such settlements, to deliver to the City Auditor, properly cancelled, all bonds, coupons, warrants and other obligations of the city, paid by him since his last settlement.

Sec. 475. **Reports of City Treasurer.**—The City Treasurer shall, on the first day of each month, make a detailed report to the City Comptroller of the business of his office during the month preceding, showing the balance on hand to the credit of the different funds at the time of his last report, the amounts received during the month, and on what account, together with such other items and facts as the Comptroller may require.

Sec. 476. **Cancelled Indebtedness.**—The City Treasurer shall, on the last business day of each month, turn over to the City Auditor all the cancelled indebtedness and vouchers, of every nature received by him during the month, taking duplicate receipts therefor, one to be filed with the City Comptroller and the other retained.

Sec. 477. **Payment to Treasurer by City Officers.**—All city officers who shall, in the discharge of their duties, receive money belonging to the city, shall, on the second day of each week commonly called Monday, unless otherwise specially provided by ordinance, pay to the City Treasurer such sums as they may have on hand, who shall give triplicate receipts therefor, one of which shall be filed with the City Auditor, another with the City Comptroller and the third retained. The last two receipts, before they shall be valid for any purpose, shall be countersigned by the Auditor.

Sec. 478. **Notary Public in Treasurer's Office.**—One of the clerks employed in the City Treasurer's office shall be a notary public, duly commissioned by the Governor of the State of Missouri. The said clerk shall be one of the regular employes of the office, and shall receive a salary of five dollars per month, payable out of the officers' and employes' department, at the same time and in the same manner as other employes are paid out of said department. The City Treasurer, at the time when he designates said clerk as notary public to be employed as aforesaid, shall procure from the said notary an agreement in the following form, to-wit: "In consideration of receiving all of the notary work to be done in the City Treasurer's office (together with the said fees therefor), of Kansas City for the fiscal year ending I hereby agree with Kansas City that the sum of five dollars per month shall be payment in full for my services as a regular clerk in the office of the City Treasurer, and that I will perform such duties as said clerk as may be assigned to me by the City Treasurer to be performed." The City Treasurer shall employ no

other person as notary in the office except such person as shall subscribe to the foregoing agreement. The City Treasurer shall file said agreement with the City Auditor, who shall keep the same safely in his office. The clerk employed hereunder shall enter into a bond in the sum of two thousand dollars, with at least two sureties residents of Kansas City, or with a surety company, in lieu of said sureties, the form of said bond to be approved by the City Counselor, and the sureties by the City Comptroller, conditioned that if the said clerk shall faithfully perform such duties as are required of him by the City Treasurer, and shall remain in the city's employ at said salary during such time as no acknowledgments are taken, and during the said fiscal year, then the bond shall be void; but if said clerk shall fail to do as provided herein, and in said bond, then said sum of \$2,000.00 shall be held to be liquidated damages for breach thereof by said clerk.

Sec. 479. **Proposals for City Depository.**—For the five days preceding the beginning of each fiscal year divisible by two, the City Treasurer shall advertise in the newspaper doing the city printing, for sealed proposals from the banks or banking institutions of Kansas City, Missouri, for the current deposits of the city funds for the succeeding two years. Such proposals shall state the rate of interest per annum, which shall be paid upon the current deposits of said city funds, estimated on daily balances, to be paid monthly on the first day of each calendar month. Each and every proposal shall be accompanied by a certified check or certificate of deposit in the sum of ten thousand dollars, payable to the order of the City Treasurer as a guaranty that in case such proposal shall be accepted, such successful bidder will enter into contract with said Kansas City, for said city funds for the said succeeding two years, upon the terms and conditions named in said bid, and that said successful bidder will furnish said city such bond and security as may be required by ordinance, for the faithful performance of said contract, and for the safe keeping and prompt payment of the said funds, and every part thereof, when demanded by the City Treasurer or other lawful authority. Said bond to be approved by the Mayor and a two-thirds vote of the members-elect of the Upper House of the Common Council. In case any of the banks or banking institutions whose bid shall be accepted for the said safe keeping of said city funds, shall fail or refuse to enter into said contract, or shall fail or refuse to furnish said bond or security, said ten thousand dollars so deposited with said bid, shall become forfeited absolutely to the said Kansas City.

Provided further that if for any reason said sealed proposals shall not be opened or said contract shall not be entered into at the time above specified, or if for any reason any contract so entered into for said City fund shall be annulled or terminated, the City Treasurer may, at the request of the Mayor or Common Council, readvertise and relet the contract at any time subsequent to the dates above provided.

Sec. 480. Meeting to Select Same and Bond.—At 10 o'clock A. M. on Friday next succeeding the first day of each fiscal year after each city election, or at the latter appointed date, if there shall be a subsequent letting or reletting, the Mayor, City Comptroller and City Counselor shall meet in the office of the City Comptroller, and in the presence of the public, shall open such sealed bids, and shall award the deposit of the city funds to the bank or banking institution proposing to pay the highest rate of interest on such city funds deposited in the manner provided in the preceding section of this ordinance, for the next two succeeding years.

The bank, banks or banking institution selected or to be selected in pursuance of Section 22 of Article IV of the City Charter, for the safe keeping and prompt payment when demanded by the City Treasurer of the City's funds, and every part thereof, deposited in such bank, banks or banking institution, shall each give bond in a sum which shall be in the ratio of one million two hundred and fifty thousand dollars for each one-third of said City funds; provided, however, that should said funds deposited in any bank at any time be more than one million dollars, then the Mayor or Common Council may order that a new or additional bond shall be given by such bank, so that the sum of the bond will be at least twenty-five per cent more than the amount of the funds deposited in such bank or banking institution.

Provided, further, that in lieu of the giving of the bond hereinbefore required such bank, banks or banking institution may give bond in a sum which shall be in the ratio of one hundred thousand dollars for each one-third of said City's funds, and in addition thereto, may deposit and leave with the Mayor, City Comptroller and City Counselor as collateral security for the safe keeping and prompt payment of said City's funds United States bonds, municipal bonds, county bonds, school district bonds, park certificates, the market value of which securities shall at all times be equal in amount to the amount deposited in such bank, banks or banking institution.

Said securities shall be approved by the Mayor, City Comptroller and City Counselor, and no change or substitution of said securities or any part of the same shall be made, without the approval in writing of said officers, who shall deposit said securities in some safe deposit vault, from which they shall not be removed at any time without the consent of all three of said officers.

If at any time the sureties on any of the bonds above required should become insolvent, then the Mayor or Common Council may order that a new or additional bond shall be given by such bank with good and sufficient sureties, to be approved in the same manner as the original bond.

Sec. 481. Treasurer Must Deposit Daily.—All moneys received by the City Treasurer shall be deposited by him daily in the bank or banking institution designated as the depository of the City funds.

Sec. 482. Bond of City Treasurer.—The official bond of the City Treasurer is hereby fixed at the sum of one hundred thousand dollars (\$100,000), such bond to be executed, approved and filed in the same manner as other official bonds.

ARTICLE V.

CITY CLERK.

Section.**483. Duties.****484. Keeping Records.****Section.****485. Certifying Ordinances.****486. Indorsing Filed Paper.**

Sec. 483. Duties.—It shall be the duty of the City Clerk, in addition to the duties imposed upon him by the City Charter:

First. To permit no records, public papers or other documents of the City, kept and preserved in his office, to be taken therefrom, except by such officers of the City as may be entitled to the use thereof, and then only upon their leaving a receipt therefor.

Second. To attest all ordinances and all signatures of the Mayor, when necessary; to affix the seal of the City to all documents requiring the same, and to sign all resolutions adopted by the Common Council.

Third. To prepare all commissions of officers, which the Mayor is required to sign, and to countersign the same and affix the seal of the City thereto.

Fourth. To keep a record of all commissions issued, and of the official oaths and bonds of all City Officers.

Fifth. To cause the ordinances and an abstract of all Council proceedings to be published, as required by the City Charter, by ordinance, or ordered by the Common Council, and to examine and correct the proof thereof.

Sec. 484. Keeping Records.—The City Clerk shall record all resolutions and ordinances passed by the Common Council which shall become laws, and keep a record of all petitions to the Common Council. Such record of resolutions, ordinances, petitions and the record of the proceedings of the Common Council shall be properly indexed by the clerk.

Sec. 485. Certifying Ordinances.—The City Clerk shall not be obliged to furnish written copies of ordinances or other papers for the use or information of any City officer or other person; but upon request of any City officer, he shall, without charge, attest any copy of any paper, document or record presented to him and affix the seal of the City thereto. He shall be entitled to receive fifty cents for each certificate, with seal affixed, made for individual use, and shall be allowed to charge at the rate of ten cents per hundred words for copying all ordinances, papers, record or Council proceedings, desired for individual use, to be paid by the party ordering the same.

Sec. 486. Indorsing Filed Papers.—On every paper or document filed in the office of the City Clerk, he shall endorse the date of such filing, together with an abstract of the contents of such paper or document.

ARTICLE VI.

CITY COUNSELOR.

Section. 487. Duties.

Sec. 487. Duties.—It shall be the duty of the City Counselor, in addition to the duties imposed on him by the City Charter:

First: To advise the Common Council or its committees or any City officer, when thereto requested, upon all legal questions arising in the conduct of the City business.

Second: To revise all ordinances before being passed, submitted to him by any committee of the Common Council.

Third: To give his opinion in writing, when thereto requested upon any matter or question submitted to him by the Common Council or any of its committees, or any City officer.

Fourth: To be personally present in either the Upper House or the Lower House of the Common Council at all meetings of such Common Council, during their entire continuance, and when unavoidably absent, one of his assistants shall be so present.

Fifth: To manage and conduct on behalf of the City, all condemnation proceedings before the Municipal Court of the City, and upon appeal.

Sixth: To collect all delinquent taxes.

Seventh: To keep a complete record of all suits brought against the City, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case and the briefs of counsel, and deliver to such record to his successor in office.

Eighth: To file with the Board of Public Works, each year, a copy of all briefs made for the City by him or his assistants, which shall be bound by said Board in volumes for the use of the Counsellor's office.

Ninth: On and after the third Monday in April, 1910, an Assistant City Counsellor shall prepare all charges and complaints against parties for violations of City Ordinances, and appear daily before the Municipal Court to prosecute all offenders against the laws and ordinances of this City; defend all actions before the Municipal Court or Justice of the Peace, brought against any officer, servant or agent of the City, on account of his official acts; appear and prosecute in the Criminal Court of Jackson County in all cases taken by appeal from the Municipal Court.

ARTICLE VII.

CITY COMPTROLLER.

Section.

488. Duties.

489. Defaulters.

490. Proceeds of Bond Sales.

491. Attending to Property Sales.

492. Report to Council.

Section.

493. Statement to Lower House.

494. Countersigning Licenses.

495. Duty to Attend Real Estate Sales.

496. Attendance at Council Meetings.

Charter, Art. IV, Secs. 8, 11, 12, 13, 14, 15, 16.

Sec. 488. **Duties.**—It shall be the duty of the City Comptroller, in addition to the duties imposed upon him by the City Charter, to exercise a general supervision over all officers of the City, regarding the proper management of the fiscal concerns of their respective offices. He shall examine the books of each department from time to time, and see that they are kept in proper form. He shall see that all necessary reports are made to him by the various officers of the City; that officers receiving money pay the same into the City Treasury, when thereto required, and report all delinquents to the Mayor and Common Council.

Sec. 489. **Defaulters.**—When any officer of the city shall become a defaulter, it shall be the duty of the Comptroller to direct the City Counsellor to take immediate legal measures for the recovery of the amount for which such officer may be in default.

Sec. 490. **Proceeds of Bond Sales.**—The City Comptroller shall deposit the proceeds of all sales of bonds with the City Treasurer immediately after he shall have received the same, and, until such deposit, he shall be responsible for the amount thereof.

Sec. 491. **Attending to Property Sales.**—He shall also attend to the letting, sale or other disposition of property belonging to the City, and to the collection of all accounts, rents and other moneys due the City, except where otherwise provided by law or ordinance.

Sec. 492. **Report to Council.**—In the annual report to the Common Council, required of the Comptroller by the City Charter, on the financial condition of the City, he shall give a full and de-

tailed account of all receipts and expenditures of money by the City, during the preceding year, and of all the liabilities of the City; the condition of all appropriations, the amount of money on hand belonging to each of the different funds, or departments of the City; the contracts unfulfilled; the balance of money in the City Treasury, and the sums due and outstanding; the names of all persons who have become defaulters to the City, and the amount in their hands unaccounted for, and a statement of all other matters necessary to a complete exhibit of the City's financial condition.

Sec. 493. Statement to Lower House.—He shall also, at the first meeting of the Common Council in each fiscal year, certify to the Lower House the amount of money to be raised by taxation, for the payment of bonds and coupons maturing during the year, as required by the City Charter. He shall also submit a statement of all contracts made or authorized by the Common Council, and not performed or completed during the years preceding and upon which any money remains unpaid, and the amount so unpaid on each. To this end he shall require from the City Engineer and other City officers and heads of departments such information as he shall need to enable him to fulfill the duty imposed upon him herein.

Sec. 494. Countersigning Licenses.—The City Comptroller shall countersign all licenses issued by the City Auditor and keep a complete record thereof in his office.

Sec. 495. Duty to Attend Real Estate Sales.—It shall be the duty of the Comptroller to be present at all sales of real estate sold under execution upon judgment for special assessments to be collected by the City, and in behalf of the City, bid the amount of the judgment, interest and costs upon each lot or parcel of real estate exposed for sale, and in case no higher bid is made, to have the same struck off and sold to the City. The Comptroller may, at such sales, be represented by an assistant or by the City Counsellor or his assistant.

Sec. 496. Attendance at Council Meetings.—The City Comptroller shall be in his office during the regular meetings of the Common Council and during special meetings when thereto required by the Mayor or Council to perform such duties of his office as may be necessary during such meetings.

ARTICLE VIII.

CLERK OF MUNICIPAL COURT.

Section.

497. Shall Issue Writs and Collect Fines.

498. Shall Prepare Executions.

499. Receive Fines.

500. Record of Municipal Court.

Section.

501. Preservation of Complaints.

502. Payment to Treasurer.

503. Shall Give All His Time to Official Duties.

Charter, Art. IV, Sec. 10.

Sec. 497. Shall Issue Writs and Collect Fines.—The clerk of the Municipal Court shall attend all sessions of said court, keep all records thereof, prepare all writs and other necessary papers, collect all fines and costs, pay all witness fees, taking proper receipts therefor, and assist the judge whenever requested in any and all duties pertaining to said office.

Sec. 498. Shall Prepare Executions.—Whenever a fine is imposed by the court, the clerk of said court, as soon as possible, shall furnish to the Chief of Police a statement of the amount of punishment assessed, and, at the hour of three o'clock of every afternoon, such clerk shall have executions prepared in duplicate for the signature of the Chief of Police, and shall do whatever else is necessary for the speedy delivery of all persons convicted in said court into the custody of the Superintendent of the Workhouse, should such delivery be required.

Sec. 499. Receive Fines.—The clerk of the Municipal Court shall receive all fines which may be paid by prisoners who shall have been committed to the workhouse, and shall record the release of said prisoners, as provided by ordinance.

Sec. 500. Record of Municipal Court.—There shall be kept in the Municipal Court, by the clerk thereof, a record in which shall be entered every complaint filed in said court, and in which shall be fully kept minutes of all proceedings under such complaint and the disposition thereof, together with the punishment assessed, if any, and the amount of the fine unpaid. Said record, when fully entered as above provided, shall be signed by the judge. In addition to that part of the record signed by the judge, said records shall show fully the amount of each fine collected, the full amounts of costs col-

lected and paid, and the names of the persons to whom such costs are paid, and the final disposition or settlement of each case.

Sec. 501. Preservation of Complaints.—The clerk of the Municipal Court shall carefully preserve every complaint filed in said court, whether the person named therein be prosecuted or not, and regardless of what disposition may be made of the charge against the person named in the complaint.

Sec. 502. Payment to Treasurer.—On the first and third Monday of each month, unless required to do so oftener by the City Comptroller, the clerk of the Municipal Court shall pay to the City Treasurer all money received by him from any and every source due the City, except such as may be paid for costs in any case; and shall, at such time, file in the City Comptroller's office a true and full statement of all such money received by him since the last payment to the City Treasurer, and containing an itemized account of all such money received during said period, and not paid to the City Treasurer, and the disposition thereof. Said report shall also show the total number of persons tried during said period, and the disposition of each case, whether discharged, found guilty, committed to the workhouse, appealed, pardoned, dismissed by the prosecuting officer of the City, paid fines or otherwise disposed of.

Sec. 503. Shall Give All His Time to Official Duties.—Such clerk shall give his full time to the performance of the duties of his office, for which said clerk shall receive such salary as is now or may hereafter be provided by ordinance.

Sec. 504. Access to His Records.—The records, books and accounts required to be kept by the provisions of this chapter, shall at all times be open to the inspection of the City Comptroller, or other authorized City officer, or committee of the Council, and the City Comptroller shall have the right at all times to take charge of said records, books and accounts for the purpose of examining them.

ARTICLE IX.

CITY CHEMIST.

| Section. | Section. |
|--|---|
| 505. City Chemist's Department—Duties. | 507. Assistants—Appointment of—Removal—Qualifications—Salary. |
| 506. Appointment of City Chemist—Term of Office—Qualifications—Salary. | 508. Expense of Department—From What Funds Paid. |

Sec. 505. **City Chemist's Department—Duties.**—There is hereby created a Department of Chemical and Physical Research, to be known as the "City Chemist's Department." It shall be the duty of such department to make such analyses, examination and test as may be necessarily required by the various departments of the City Government. It shall act in an advisory way in all sanitary chemical engineering and technical matters pertaining to the City's business whenever called upon by the head of any department of the City Government, and shall so co-operate with the head of each department, so as to enable such department to keep chemical control of all operations or materials, the manufacture, handling, or supervision of which such department is undertaking.

Sec. 506. **Appointment of City Chemist—Term of Office—Qualifications—Salary.**—The City Chemist shall be the head of the City Chemist's Department. He shall be appointed by and shall hold his term during the will of the Hospital and Health Board, subject to the provisions of Article XV of the Charter, relating to Civil Service; *provided*, however, that the present City Chemist shall serve under his present appointment until the beginning of the fiscal year, 1910, and until his successor is appointed and qualified. The City Chemist shall be a graduate of a reputable medical college and in addition shall have such chemic and technic training as is equivalent to a full course in the Scientific Department of the State University, and he shall have had prior to his appointment at least three years' experience in the practice of medicine and at least three years' experience in such chemic and technic work as is by the terms of this article required of the City Chemist's Department. He shall receive a salary of one hundred and twenty-five dollars (\$125.00) per month.

Sec. 507. Assistants—Appointment of—Removal—Qualifications—Salary.—There shall be a first Assistant City Chemist and a second Assistant City Chemist, each of whom shall be appointed by the Mayor and who may, for good and sufficient cause, be discharged by the City Chemist, subject to the provisions of Article XV of the City Charter, relating to Civil Service, provided that the first and second Assistant City Chemists shall serve until the beginning of the fiscal year, 1910, and until their successors are appointed and qualified. The first Assistant City Chemist shall have had training equivalent to a full course in the Scientific Department of the State University, and at least one year's experience in general chemical laboratory work. He shall receive a salary of one hundred and ten dollars (\$110.00) per month. The second Assistant City Chemist shall have had training equivalent to at least two years in the Scientific Department of the State University, and at least three months' experience in general chemical laboratory work, his salary shall be sixty dollars (\$60.00) per month.

Sec. 508. Expense of Department—From What Funds Paid.—Inasmuch as one-third of the work required from the City Chemist's Department will be required for work in the Water Department, one-third of the expense of the City Chemist's Department shall be paid out of the Water Department, and two-thirds thereof out of the City Hall Department.

ARTICLE X.

MISCELLANEOUS PROVISIONS.

Section.

509. Accounting for Money.
510. Residence of Employees.

Section.

511. Assignment of Salary, Wages,
Etc.—Penalty.
512. Employees Must Pay Just Debts.

Sec. 509. Accounting for Money.—All city officers and employees who shall, in the discharge of their duties, receive any money belonging to the City, shall, unless otherwise specifically directed by ordinance, on the last business day of each calendar month, and on the third Monday in May, pay to the City Treasurer such sums as they may have on hand, taking triplicate receipts therefor; one of which shall be filed with the City Auditor, another with the City Comptroller, and the third retained. The last two receipts, before

they shall be valid for any purpose, must be countersigned by the Auditor.

Sec. 510. **Residence of Employees.**—No person shall be employed by the City at an annual or monthly salary unless he shall at the time of such employment and for at least one year next preceding such employment, have resided within the territory at the time of his employment included within the corporate limits of the City, and any such employe ceasing to reside within the City shall thereby be disqualified for such employment.

Sec. 511. **Assignment of Salary, Wages, Etc.—Penalty.**—No assignment of the salary, wages or earnings, whether earned or unearned, of any officer or employe of the City shall be valid and all such assignments are hereby declared to be void. No person shall combine his claim against Kansas City for salary or for any other demand with that of another or others, thereby procuring one warrant for both or all of said claims, instead of two or more warrants, and no warrant shall be issued by the City Auditor, or countersigned by the Comptroller or paid by the City Treasurer, to any person other than the one who has actually done the work, performed the services, supplied the material, furnished the supplies, or has complied with a contract out of which his claim arose.

The City Auditor shall allow no person to receipt the Auditor's book for warrants issued, other than the person actually doing the work, performing the services, supplying the materials, or has complied with the terms of a contract existing between him and Kansas City; *provided*, however, that in the event of non-residents desiring to receipt for warrants on said Auditor's book, they may do so by resident agent or attorney, duly authorized in writing; *provided*, further, that where such non-resident has no resident agent, the City Comptroller shall forward to him his warrant.

Any person failing, neglecting or refusing to comply with any of the provisions or requirements of this section, shall be fined by the judge of the Municipal Court not less than five dollars nor more than five hundred dollars, and any officer or employe of the City who shall sell or assign his salary, wages or earnings, whether earned or unearned, shall thereby be deemed to have committed an act which is hereby declared to be sufficient cause for his removal; and all officers and employes who shall sell or assign their salaries, wages or earnings, whether earned or unearned, shall thereby be subject to

immediate discharge and suspension, and the head of any department in which any such employe works shall discharge said employe upon receiving information of such sale of salary or wages.

Nothing in this section contained shall be construed as a prohibition or denial of the right of any person to sell, assign, transfer or endorse over any warrant which has been previously lawfully issued to him by the City.

Any person, who for any cause shall be discharged from or quit the service of the City shall receive at the time of said discharge a certificate from the Foreman of the Department from which he shall have been discharged stating the time he has worked and the amount due him from the City for such labor; and such certificate, when assigned in the presence of and attested by the City Auditor, shall entitle the assignee thereof to receive such wages as may be due to the person so discharged; anything in this section to the contrary notwithstanding.

Sec. 512. Employees Must Pay Just Debts.—Any officer of Kansas City, not elected by the people, or any employe of Kansas City, neglecting or refusing to pay a just debt contracted during his term of office or employment, providing same has been reduced to a judgment by a court of competent jurisdiction, shall be subject to removal from office, and such officer or employe shall be discharged from the service by the head of the department in which he may be employed.

CHAPTER 12.

ORDINANCES.

| Section. | Section. |
|---|---|
| 513. Recording and Publishing Ordinances. | 519. Title of Ordinances. |
| 514. Repeal of Ordinances. | 520. Time of Taking Effect. |
| 515. Singular and Plural Terms. | 521. Territorial Application of Ordinances. |
| 516. Masculine and Feminine Terms. | 522. Penalties Under Previous Ordinances. |
| 517. Application of Preceding Sections. | 523. Charter and Amendments. |
| 518. Repeal of Repealing Ordinances. | 524. Penalty. |

Charter, Art. III, Secs. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.

Sec. 513. Recording and Publishing Ordinances.—The City clerk shall forthwith file in his office all the original ordinances and all resolutions which have become laws and shall record the same in well bound books provided for that purpose by the city; *provided*, no ordinance shall be recorded until it shall have become a law. He shall also make a written index of the subject of each ordinance and resolution, its number and date of becoming a law, together with the record and page where found, and shall preserve the file and records in his office. He shall also have all ordinances of a general nature published in the newspaper doing the City printing for five days. Such publication to be directly after said ordinances have become laws.

Sec. 514. Repeal of Ordinances.—No offense committed, or failure to do any act required by any ordinance or resolution, and no fine, penalty or forfeiture incurred previous to the time when the provisions of such ordinance, part of ordinance or resolution shall be repealed, shall be affected, released or in any way discharged by such repeal; but the trial, conviction and punishment of all such offenses and failures and the recovery of such fines, penalties and forfeitures, shall be had, prosecuted, recovered and received as fully in every respect as if such provisions had remained in force.

Sec. 515. **Singular and Plural Terms.**—Whenever in this chapter, or any ordinance or resolution now or hereafter becoming a law, words importing the plural number are used in describing or referring to any objects, matters, parties or persons, any single object, matter, party or person, shall be deemed to be included, notwithstanding the distinctive words to that effect may not be used.

Sec. 516. **Masculine and Feminine Terms.**—Whenever any subject, matter, party or persons is described or referred to in this chapter, or any ordinance or resolution now or hereafter becoming a law, by words importing the singular number or the masculine gender, several subjects, matters, parties and persons, and females as well as males, bodies corporate and co-partnerships, as well as individuals, shall be deemed included.

Sec. 517. **Application of Preceding Sections.**—The rules prescribed in the two next preceding sections shall apply in all cases, unless it shall be otherwise expressly provided in any ordinance or resolution, or unless there be something in the subject or context repugnant to such construction.

Sec. 518. **Repeal of Repealing Ordinances.**—When any ordinance, repealing a former ordinance, clause or provision, shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it be so expressly provided.

Sec. 519. **Title of Ordinances.**—All ordinances hereafter passed shall have a title indicating the nature and object thereof.

Sec. 520. **Time of Taking Effect.**—All ordinances hereafter passed shall take effect and be in force from the date of their approval or authentication, as herein provided, unless it be otherwise expressly provided in such ordinances; and if any ordinance be introduced in the Common Council containing a provision that the same shall take effect from its passage, the City Clerk shall strike out such provision before reading such ordinance.

Sec. 521. **Territorial Application of Ordinances.**—The provisions, regulations and requirements of this chapter shall have effect and be in force, and shall extend and apply to all persons, objects,

thing and subjects within the corporate limits of Kansas City; *provided*, that chapters herein concerning sanitary laws and nuisances shall, in addition to such limits, have effect and be in force, and shall extend and apply to all persons, objects things and subjects within the limits specified in said chapters respectively.

Sec. 522. **Penalties Under Previous Ordinances.**—All rights of action, fines, penalties and forfeitures heretofore accrued to said City shall remain unaffected by this chapter, and may be prosecuted, recovered and received as fully in every respect as if this chapter had not been passed.

Sec. 523. **Charter and Amendments.**—Whenever, in this chapter any mention is made of the Charter of this City, it shall be deemed to mean and refer to the Charter adopted by the people of Kansas City at the special election held August 4th, 1908, and the amendments thereto.

Sec. 524. **Penalty.**—Whoever shall violate, fail, neglect or refuse to comply with any provisions, regulations or requirements of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, where no other penalty is provided, be fined not less than one dollar nor more than five hundred dollars.

CHAPTER 13.

PUBLIC IMPROVEMENTS.

Article.

- I. Board of Public Works.
- II. Department of Engineering.
- III. Condemnation of Property.
- IV. Streets and Alleys.
- V. Sidewalks.
- VI. Street Excavations and Obstructions.

Article.

- VII. Sewers, Drains and Culverts.
- VIII. Blasting.
- IX. Eight Hour Law.
- X. Parks and Boulevards.
- XI. Trees.
- XII. Vacation Proceedings.

ARTICLE I.

BOARD OF PUBLIC WORKS.

Section.

- 525. Vacancy.
- 526. Secretary of Board.

Section.

- 527. Printing Contracts.
- 528. Notice in German Paper.

Charter, Art. X.

Sec. 525. Vacancy.—If in case of removal by death or otherwise, a vacancy exists in such Board of Public Works, the vacancy shall be filled only for the unexpired term of such vacating member.

Sec. 526. Secretary of Board.—There shall be a secretary of the Board of Public Works who shall be appointed by the Board of Public Works and at its pleasure removed. The secretary shall perform such duties as may be imposed upon him by the Board of Public Works or as may hereafter be provided by ordinance.

Sec. 527. Printing Contracts.—All printing required by the Charter to be done by the newspapers doing the City printing, and all printing to be done under and in pursuance of any ordinance of the City, shall be done under yearly contracts for the same, to be made by the Board of Public Works on behalf of the City.

Such contracts to terminate on the first day of July of such year, or as soon as the contract for the ensuing year comes in force.

Sec. 528. Notice in German Paper.—The Board of Public Works is authorized, when it may deem proper, to publish in the daily newspaper published in Kansas City, in the German language, all such notices and publications as the Charter or ordinances may require said Board to publish in English.

ARTICLE II.

DEPARTMENT OF ENGINEERING.

Section.**529. Duties.****530. Duties of City Engineer.****Section.****531. Contractor in Default.**

Charter, Art. X, Sec. 4.

Sec. 529. Duties.—It shall be the duty of the Department of Engineering to supervise the opening and grading of all streets and alleys, and the paving of the same; the construction of public and district sewers, sidewalks and curbing; to superintend the laying of all tracks in the streets and alleys; to prepare plans and specifications of all public and district sewers ordered by the Common Council to be built, and preserve the maps, plans and profiles of all such work, together with the books, papers and letters relating thereto, and to perform such other duties as may be required of it by the Board of Public Works.

Sec. 530. Duties of City Engineer.—It shall be the duty of the City Engineer, in addition to the duties imposed upon him by the City Charter:

First: To prepare plans and specifications of all public work ordered by the Common Council.

Second: To preserve in his office all maps, plats, profiles and surveys of the City, together with the books, papers and letters relating thereto.

Third: To furnish to the Common Council, from time to time, such reports as they may require.

Fourth: To report to the Board of Public Works all violations of any contract.

Fifth: To sign all contracts on behalf of the City for all public improvements done under the provisions of any ordinance, and to superintend the execution thereof.

Sixth: To keep a record of all Special Tax Bills issued by the City for grading and paving of streets, alleys and sidewalks, for curbing and guttering and for the repairs thereof, and for the construction of sewers and such other records as may be needed in connection with the business of his office.

Sec. 531. Contractor in Default.—Before any ordinance providing for public work shall be confirmed or approved by the Common Council, the same shall be accompanied by a certificate from the City Engineer to the effect that the contractor and his bondsmen are not in default with the City, either on any original bonds, or maintenance bonds. The City Comptroller is hereby directed not to approve any bonds for the doing of public work unless accompanied by a certificate from the City Engineer of the character provided for herein.

ARTICLE III.

CONDEMNATION OF PROPERTY.

Section.

- 532. Collection of Assessments.
- 533. Notice to Owners.
- 534. Credit on Tax Bills.
- 535. Tax Bills Shall Not Issue, When
—Credit on Same.
- 536. Filing Bills in Circuit Court.

Section.

- 537. Paying Damages.
- 538. Treasurer's Report.
- 539. Return of Benefits.
- 540. Comptroller Shall Sell Improve-
ments.

Charter, Art. VI.

Sec. 532. Collection of Assessments.—No proceedings to collect assessments for property taken shall be begun until the time for an appeal from the verdict of the jury shall have expired. Immediately after the expiration of such time, without an appeal having been taken, the City Clerk shall immediately transmit a copy of said verdict to the City Treasurer, who shall enter the same, so far as it specifies the damages and benefits assessed in said verdict, in a book to be kept by the Treasurer for such purpose, and the City Treasurer shall proceed to collect the benefits so assessed. In case any assessment of benefits shall remain uncollected after the expiration of sixty days from the time of the receipt of said verdict by

the City Treasurer, the City Clerk may, at any time, issue Special Tax Bills, under his hand and the seal of the City, in form as provided by Section 4 of Article VI of the City Charter, and shall enter the date of the issue thereof upon the margin of the record of the verdict, and shall record the same in a book to be provided for that purpose, showing the name of the present owner, as given in or upon said tax bill, the property assessed and the date and amount of the tax bill.

Sec. 533. Notice to Owners.—The City Treasurer, as soon as such verdict is received by him, shall send by mail to each of the owners of property described in such tax bill, if the postoffice address of such owner or owners be known to said Clerk, a written or printed notice that said assessments are in his hands for collection and will be payable at his office at any time within sixty days from the day such verdict was received by him, naming such date.

Sec. 534. Credit on Tax Bills.—Every such special tax bill issued by the City Clerk shall be credited by him with the amount of damages for compensation to which the owner of the lot or parcel of property, against which the tax bill is issued, may be entitled for such lot or parcel of property, or portion thereof, not exceeding the amount of such tax bill.

Sec. 535. Tax Bills Shall Not Issue, When—Credits on Same.—If the owner of any one lot or parcel of property assessed be entitled to damages or compensation for such lot, or any portion thereof, equal to or exceeding such assessment on such lot or parcel of property, no tax bill shall be issued, but the City Treasurer shall make the proper credit and entry.

Whenever it shall appear with certainty that the same person or persons, firm or corporation shall be the owner of real estate taken for public use, by any proceeding, for which taking damages have been awarded, and also is the owner of any tract or tracts, parcel or parcels of land against which benefits have been assessed in said proceeding, then said owner or owners may, upon application to the City Treasurer, at any time before interest is by law collectible on any such assessment, have such award or damages or any portion thereof credited on the assessment or assessments of benefits levied against said real estate as aforesaid. Release of mortgages, if any exist, against the property taken for which damages have been awarded, must be placed on record in the office of the

Recorder of Deeds, according to law, before any off-sets or credit, as above provided, can be allowed. And the City Treasurer, Auditor and Comptroller are hereby authorized and directed to make a proper record on their books showing all such set-offs or credits.

Sec. 536. Filing Bills in Circuit Court.—If all of said benefit assessments are not paid within four months from the time the City Treasurer shall have mailed said notices, as above provided, the City Treasurer shall notify the City Clerk what assessments have not been paid, and the City Clerk shall thereupon file in the office of the Clerk of the Circuit Court of Jackson County, tax bills for all such unpaid assessments.

Sec. 537. Paying Damages.—All moneys collected on account of assessments against private property, and the appropriation to pay the amount assessed against the City, shall be paid *pro rata* among the parties entitled to compensation for property taken, leaving out of the calculation the amount of compensation that shall have been paid by credits given as hereinbefore provided. Partial *pro rata* payments may be made from time to time from moneys collected and appropriated to the parties entitled to the same. In such cases, the City Comptroller shall direct the City Auditor to draw warrants on the City Treasurer in favor of the parties named for the amounts due them respectively on such *pro rata* payments, the amount to be paid to each party to be specified in each requisition, and the total amount in no case to exceed the amount collected and appropriated on account of the particular assessment at the time. In case the title to any property taken is in dispute, the share of *pro rata* payments to which such property may be entitled shall be withheld until such dispute is settled.

Sec. 538. Treasurer's Report.—The City Treasurer shall, in each condemnation proceeding, when thereto required, make report to the City Comptroller of the total amount of damages assessed and to be paid; of the amount assessed and paid by credits, as herein provided; of the amount collected and paid into the City Treasury; of the amount appropriated by the City; of the amount paid to parties entitled to compensation, exclusive of credits, as herein provided; of the amount to be appropriated to provide for deficiency, if any, and the reason of such deficiency of funds to pay in full for property taken.

Sec. 539. Return of Benefits.—That, in all condemnation or grading cases where benefits have been or may hereafter be assessed and where payments of said assessments have been or may hereafter be made to the City Treasurer, that whenever the judgment and proceedings, under which said assessments are paid, is for any reason declared invalid, or the property condemned is not acquired by the City, or the grading improvement is not made, that the City Comptroller is hereby authorized and directed, upon the return of the receipt given by the Treasurer, upon the payment of said benefits, to make a requisition upon the City Auditor for a warrant for the amount paid to the City Treasurer to the person to whom the receipt of the Treasurer was given, said payment to be made out of the special fund in the proceedings in which the payment was made.

Sec. 540. Comptroller Shall Sell Improvements.—When all assessments are collected and all damages are paid under any perfected condemnation proceedings to widen, open or extend any street or alley within Kansas City, the City Comptroller is hereby authorized and instructed to take possession in the name of the City of any and all improvements and buildings not removed by the owner within thirty days after payment for the property on which said improvements and buildings are located has been made to said owner or deposited in court for his benefit. The Comptroller shall sell the improvements and buildings so taken by him at public or private sale, at the highest price offered in cash, for the benefit of the City, turning the money so received into the City Treasury; and if any of said buildings or improvements are not so sold by the Comptroller within sixty days after all damages as above are paid, then the Comptroller shall have said building and improvements removed at the cost of the City, as in his judgment may seem most advisable.

ARTICLE IV.

STREETS AND ALLEYS.

Section.

- 541. Grading Contracts.
- 542. Alley Grades.
- 543. Intersection of Streets and Alleys.
- 544. Advertising for Bids.
- 545. Depositing and Opening Bids.
- 546. Bid—Bond or Cash Deposit.
- 547. Performance of Contracts—Extensions.
- 548. Affidavit of Securities.

Section.

- 549. Refusal to Make Affidavit.
- 550. Contracts and Their Approval.
- 551. Failure to Execute or Approve Contract.
- 552. Provisions of Contract.
- 553. Temporary Drains and Culverts.
- 554. Details of Work.
- 555. Records of Improvements.

Charter, Art. VII.

Sec. 541. Grading Contracts.—Whenever an ordinance shall provide for grading a street or avenue, or part of either the same shall, unless therein otherwise especially provided, be deemed and taken to require the grading of such street, avenue, or part of either, the whole width thereof, including sidewalks, and the contract for doing such work shall be deemed to extend to the whole width of such street, avenue, or part of either, and the cost of the work shall be computed, apportioned, charged and paid for accordingly.

Sec. 542. Alley Grades.—The grades of all alleys in Kansas City, not otherwise provided for by ordinance, are hereby established as follows: The grade of every alley, leading from one street to another, shall be a true plane from the grade of the street at one end of the alley to the grade of the street at the other end of the alley, taking the grade of each street to be that of the point where the center line of the alley intersects the street. The surface at and near the intersection of alleys and streets, shall be made convenient for passage and for surface drainage, according to the direction of the City Engineer.

Sec. 543. Intersection of Streets and Alleys.—When any ordinance shall provide for doing any public work mentioned in this chapter, on any particular street or avenue, such ordinance and any contract made in pursuance thereof, shall be construed to require all such work to be done, as part of the contract, as may be needed at the intersection of the street or avenue to be improved with other streets, avenues or alleys, back to a line with the front of the lots on the street or avenue to be improved.

Sec. 544. Advertising For Bids.—When any ordinance shall provide for the doing of any public work mentioned in Article VII of the City Charter, the Board of Public Works shall, as soon as practicable thereafter, cause to be provided the necessary plans and specifications, which shall in cases where a contract must be let to the lowest and best bidder, prescribe a time within which the work shall be finished, and the amount of security to be given by the contractor for the performance of the work.

As soon as practicable thereafter, and after taking other requisite preliminary steps, in case a contract is to be let to the lowest and best bidder, the Board of Public Works shall cause to be published, for ten successive days, within the twenty days next preceding the time for opening bids, in the newspaper doing the City printing, a notice of the letting of the contract for such work to the lowest and best bidder. Such notice shall state generally the nature of the work to be done, where the plans and specifications thereof may be seen and the day when bids shall be opened.

Sec. 545. Depositing and Opening Bids.—Bids for such work shall be signed by the bidder, enclosed in a sealed envelope, directed to the Board of Public Works, and shall not be opened until the day fixed therefor, and then only by the Board of Public Works. Bids shall be opened at the time and place fixed by the Board of Public Works.

Sec. 546. Bid—Bond or Cash Deposit.—Each bid shall be accompanied by a bond to Kansas City, in a sum to be fixed by the Board of Public Works, executed by the bidder, with two or more responsible sureties, approved by the City Comptroller, to be paid as liquidated damages, and not as a penalty in case the bidder shall fail, after having been notified of the acceptance of his bid by the Board of Public Works to enter into a written contract to do the work bid for, according to the terms of his bid; *provided*, however, that when the estimate of the City Engineer of the work to be let shall exceed the sum of two thousand dollars, then every bidder whose bid exceeds two thousand dollars shall deposit with the City Comptroller such sum as may be fixed by the Board of Public Works, to be forfeited and retained by Kansas City and paid into the City Treasury by the Comptroller, as liquidated damages, in case the bidder shall fail to enter into a written contract to do the work bid for, according to the terms of his bid, within thirty days after the acceptance of said bid.

Sec. 547. Performance of Contracts—Extensions.—The performance of contracts, let as aforesaid, shall be secured by at least two responsible securities, to be approved by the City Comptroller, in such amount as may be determined by the Board of Public Works. All contracts let as aforesaid, shall specify the time within which the same shall be completed; and for the failure on the part of the contractor to complete his contract within the time so specified the sum of not less than ten dollars nor more than twenty-five dollars per day for each and every day after the expiration of the time so specified, shall be deducted by the City Engineer from the amount of the estimate of such work due such contractor, as liquidated damages for delay in the completion of any such work; *provided*, however, that should any contingency arise in the prosecution of such work on any contract, by delay caused or ordered by the City Engineer or other officer in charge, or by circumstances beyond the control of the contractor, an extension of the time of completion of such contract may be made by ordinance and for the time so extended, the liquidated damages herein provided for shall not be deducted.

Sec. 548. Affidavit of Securities.—Whenever it is required that the contractor of public works give bond, and that such bond be approved by the City Comptroller, the City Comptroller may require the securities to make affidavit in writing concerning their financial standing. Such affidavit shall set out a full description of the property owned by such surety; and whether the same is owned by himself or jointly with others; also, whether there is any encumbrance on his property; if so, the amount of such encumbrance; which affidavit shall also state the location of such property and its value; and if from such affidavit the Comptroller is satisfied the securities are sufficient, then he can approve such bond.

Sec. 549. Refusal to Make Affidavit.—If any surety shall refuse or fail to make such affidavit when required by the City Comptroller, then the Comptroller shall not approve such bond.

Sec. 550. Contracts and Their Approval.—Within ten days after the acceptance of a bid, the City Engineer shall notify the bidder to enter into a written contract with the City which shall be executed on behalf of the City, by the Engineer, and shall be signed by the bidder and his securities. Every such contract shall be submitted to the City Counsellor, or, in his absence or disability,

to the first or second assistant City Counsellor, for approval of the form thereof (which approval shall be endorsed thereon), after which it shall be submitted to the Common Council for its approval, which approval shall be by ordinance. The approval shall be endorsed thereon by the City Clerk and the contract shall bind and take effect from the date of such approval. The City Engineer shall thereafter record the contract, with all endorsements thereon, in a book to be provided for that purpose, and preserve the original in his office.

Sec. 551. Failure to Execute or Approve Contract.—If the party whose bid is accepted, fail to enter into contract, as aforesaid, when thereto required by the City Engineer, the latter shall at once deliver the bond accompanying the bid to the City Counsellor for collection by suit, and the money, when collected, shall be paid into the City Treasury to the credit of the general fund. And in such case, or if the ordinance to affirm such contract shall have been placed upon its passage and shall fail to pass, or if such ordinance is returned by the Mayor with his approval, and shall then fail to pass, the committee may then accept the bid of the next lowest and best bidder, who shall thereupon enter into a contract, as aforesaid, or the Board of Public Works may advertise for new proposals, as in its judgment may be for the best interests of the City.

Sec. 552. Provisions of Contract.—Every contract entered into as aforesaid shall contain a clause stating that the same is entered into, subject to the existing Charter and Ordinances of the City, and with a power reserved to the City Engineer to suspend or annul the same for a failure on the part of the contractor to fulfill the same; but that such suspension or annulment shall not affect the rights of the City to all damages claimed by it on account of the contractor's failure; and all such contracts shall, when the work is to be paid for in special tax bills, to be issued after the completion of the work, so state.

Sec. 553. Temporary Drains and Culverts.—The work done in constructing any street or avenue, in whole or in part, may be protected from surface water by temporary drains or culverts, put in under the direction of the City Engineer, in such places, at such times, of such material and dimensions, as he may deem best, and the plans and specifications for grading and other work shall, as far as practicable, provide for such drains and culverts, the cost

of the same, and of all such drains and culverts put in under the direction of the City Engineer, shall be deemed part of the cost of the work done under the particular ordinance and contract in the case, and be paid for accordingly. The Board of Public Works may, in its discretion, from time to time, close, remove or alter any such drains or culverts.

Sec. 554. **Details of Work.**—The details of all work as to the surface of streets, avenues and highways shall be fixed and determined by the Board of Public Works, subject to the laws and ordinances of the City.

Sec. 555. **Records of Improvements.**—The City Engineer shall keep permanent records of all public improvements, and especially of all work the cost of which is to be paid for in special tax bills, setting forth the location and cost of such work and all details connected therewith. The maps, plans, books and papers, in the Engineer's department or office, shall be subject to examination by any person seeking information therefrom, under such regulations as the Engineer may prescribe.

ARTICLE V.

SIDEWALKS.

Section.

- 556. Definition of First-Class Sidewalks.
- 557. Construction of Stone Sidewalks.
- 558. Artificial Stone Flagging Sidewalks.
- 559. Hexagon Block Sidewalks.
- 560. Brick Sidewalks.
- 561. Second-Class Sidewalks.
- 562. Property Owner Building Sidewalk—Penalty.
- 563. Ice, Snow, Etc.—Repairs.
- 564. Repairs of Curbing, Guttering Etc.
- 565. Listing Lots With City Engineer.
- 566. Notice to Repair Sidewalk.

Section.

- 567. Second Notice.
- 568. Repairing Without Notice.
- 569. Railings to Sidewalks.
- 570. Replacing Sidewalks.
- 571. Duties of Engineer.
- 572. Contracts for Repairs.
- 573. Letting by Board of Public Works.
- 574. Special Tax Bills for Repairs.
- 575. Inspection of Sidewalks.
- 576. Issuing Tax Bills for Repairs.
- 577. City Not Liable.
- 578. Cross Walks.
- 579. Sidewalks to Be Replaced—Penalty.

Charter, Art. VIII. Art. III, Sec. 16.

Sec. 556. **Definition of First-Class Sidewalks.**—All sidewalks constructed on streets that are macadamized or paved and

curbed shall be first-class sidewalks, constructed of either natural stone, artificial stone flagging, artificial stone, hexagon blocks or hard burned brick or vitrified brick, and only sidewalks constructed of one of said materials and in accordance with the following sections governing the construction of sidewalks of such materials shall be deemed first-class sidewalks within the meaning of the ordinances of Kansas City.

Sec. 557. Construction of Stone Sidewalks.—Where said sidewalks shall be constructed of stone, the stone shall be Bandera stone, Beaver stone, Berea stone, Joliet stone, native stone, Nevada stone or Colorado sandstone, of quality to be approved by the Board of Public Works, and shall not be less than six (6) inches in thickness over areas and two and one-half (2 1-2) inches in thickness elsewhere. No stone shall be less than six (6) feet in length, excepting where illuminating cast iron tiling or entrances to areas occur, where said stone must extend from the curb line to said illuminating cast iron tiling or area entrances. Stones shall be made to break joints as indicated by the Board of Public Works. No stone shall be less than four (4) feet in width. Wherever areas occur, said sidewalks shall be supported by fifty-six (56) pound railroad iron, or other iron beams of equal strength, so arranged that in no case shall any stone be unsupported for a distance of more than three (3) feet. Said sidewalk shall be laid by placing the upper surface of the stone to the true curb elevation, and giving an inclination rising one-quarter (1-4) of one (1) inch to the foot toward the street lines. The upper surface of the sidewalk shall be dressed and finished smooth and uniform, and be carefully laid in all parts to a true plane, and all joints be closely fitted, properly dressed and caulked with oakum and rendered water tight with hot tar composition. After cutting the curb to the proper level, each stone shall be laid thereon and well bedded in cement mortar, and the outside face dressed to a true line and all interstices filled with the best cement mortar, so as to render it water tight. Where there are no areas, the stone shall be laid on a bed of six (6) inches of gravel, or broken stone or cinders, wet and thoroughly tamped, so as to prevent the flagstone from settling. All flagstones used in said sidewalks shall be of the natural color of the quarry from which they are taken, and no stone naturally discolored or taken from a bed resting upon clay will be allowed.

Sec. 558. Artificial Stone Flagging Sidewalks.—Where said

sidewalks shall be constructed of artificial stone flagging it shall conform in all respects to the following specifications:

Foundation—The sidewalk shall be properly graded and shaped to a depth of ten (10) inches below the intended surface of the pavement, and whenever loose, soft, spongy or loamy soil is found in the sub-grade it shall be removed to such additional depth as may be directed by the Board of Public Works, City Engineer, or their authorized agents, and shall be refilled with broken stone and earth, equal parts, and the whole sub-grade shall be well compacted by ramming. All refuse material shall be removed from the line of the work. After grading and shaping is done a foundation of cinders not less than six (6) inches thick shall be placed upon the sub-grade, which shall be well compacted by ramming to an even surface and well moistened before the concrete is placed thereon. Should rock be encountered in this sub-grade, this sidewalk shall be graded and shaped to a depth of nine (9) inches, made level and to a true grade and refilled with five (5) inches of cinders, well tamped and moistened.

Pavement—After the sub-foundation has been finished, the artificial stone flagging shall be laid in a good and workmanlike manner. This flagging shall be composed of fine Portland Cement Concrete, and shall be laid in continuous stones, each section to be six (6) feet in length, and the sections are to be separated by a false joint, made with a groover, at least one and one-half (1 1-2) inches deep and with an expansion joint at every third section. This expansion joint is to be made with steel templates three-sixteenths (3-16) of an inch thick and of the same length and depth that the stone is wide and thick, so as to entirely separate the adjacent stones. These joints must be smooth, straight and as small as practicable and particular care must be taken to make them uniform and perfect in appearance; and shall be plumb throughout their depth and at right angles to the line of work. This pavement shall consist of two (2) parts. First: A base course composed of Portland Cement, sand, crushed Joplin flint, granite, or a hard native limestone, mixed by measure in the following proportions: Should crushed Joplin flint or granite be used, one (1) part of Portland Cement, one (1) part of clean, sharp Kaw River sand, and four (4) parts of crushed Joplin flint or granite. Should native limestone be used, one (1) part of Portland Cement, two (2) parts of clean, sharp Kaw River sand, and four (4) parts of hard, native limestone rock. The largest fragments of Joplin flint, crushed granite or native limestone rock, not to exceed three-quarters (3-4) of an inch in its greatest

dimension, hard and perfectly clean, free from shale, dust or dirt, and such fine particles that will pass through a No. 16 sieve, having 256 meshes to the square inch. The cement, sand and stone to be thoroughly mixed, dry, and then sufficient water is to be added so that when the mixture is spread and rammed, making a solid bed, the water flushes to the surface. The finishing course to be laid upon the above described base shall not be less than one-half (1-2) inch in thickness, composed of one (1) part of Portland Cement, one and one-half (1 1-2) parts of sharp. Kaw River sand, perfectly clean, free from dust, dirt or such coarse fragments that would be retained on a No. 8 sieve, having sixty-four (64) meshes to the square inch, thoroughly mixed and skilfully laid. The finishing course must be spread on the concrete base and floated while the latter is still soft and adhesive, after which the surface will be smoothed and compacted by thoroughly and skilfully trowelling at least twice before the cement is too hard for such finishing. The work must be kept moist and protected from the direct rays of the sun until perfectly set, and no concrete shall be laid when the temperature at any time during the day or night falls below 30 degrees Fahrenheit. No retempering will be permitted, and concrete which has already begun to set will be rejected.

The cement, crushed flint, or native limestone, or crushed granite and sand used in the construction of artificial stone must be proportioned by exact measurement and for this purpose contractors will be required to provide themselves with rectangular boxes for measuring materials, and a tight box for mixing. No mixing of materials on pavements will be permitted.

Artificial Stone Curbing—The specifications for artificial stone curbing shall be as follows: The artificial stone or concrete curb shall be six (6) inches in finished thickness, and eighteen (18) inches in finished depth, with upper face corner rounded to a radius of two (2) inches. After the necessary excavation has been made along the line of the proposed curbing there shall be laid a foundation of cinders twelve (12) inches in width and four (4) inches in depth; the bed of cinders must be thoroughly rammed to a true and even surface with a hand rammer weighing not less than fifteen (15) pounds. Upon this bed of cinders, after it is well moistened, shall be constructed a curb which shall form a solid mass, divided every seven (7) feet, or as near thereto as may be, of its length into separate sections, and the concrete portion of it shall be composed of the same material and laid in the same manner as specification for artificial stone flagging. A facing one-half (1-2) inch in thickness

shall be constructed on the top of the street face of the curb for a distance of eight (8) inches from the top. This facing shall be composed of one (1) part of Portland Cement and one and one-half (1 1-2) parts of sharp, well screened and cleaned Kaw River sand, and shall be carried up simultaneously with the concrete, being plastered upon the front boards of frames, immediately previous to the placing of the concrete. After the removal of the frames the facing shall be neatly trowelled to a true, smooth surface. The curb shall be protected from the sun and wind by canvas or plank covering, or sprinkled with water at least twenty-four (24) hours after completion. The finished curb shall be of uniform color, and sections which do not correspond with the remaining portion of the curb must be replaced. Any spalling, or splitting off whatever of the finished surface of the curb, either at joints or in the body of the stone, will be cause for rejection, and any rejected stone must be immediately removed and replaced with a new one. No patching of any character will be permitted. Circular curb stones or returns will be constructed in the same manner and of similar material as straight curbs, with a ten (10) foot radius for street returns and a four (4) foot radius for alley returns, unless otherwise determined by ordinance.

Driveways—Wherever driveways are necessary across sidewalk spaces, the artificial stone flagging shall not be less than five (5) inches in thickness, placed upon a foundation prepared as specified for artificial stone flagging, and the surface shall be finished with sufficient longitudinal grooves or corrugations as to provide a safe foot hold for animals. This artificial stone flagging shall be laid and finished as specified above for artificial stone flagging, with a base course of fine concrete, not less than four and one-fourth (4 1-4) inches in thickness, with a finishing course to be laid upon this base that shall not be less than three-quarters (3-4) of an inch in thickness.

All work, whether public or private, should complaint be made that the granitoid work is not up to these specifications, the party making the complaint, should he desire any part of the work taken up for investigation, must deposit with the Secretary of the Board of Public Works a sum of money sufficient to cover the cost of replacing any stone or stones, and the City Engineer shall have authority to take up and examine any portion of the work and test its character and determine whether or not the work conforms to the contract and specifications. Should the work be found defective, it shall be replaced at the expense of the contractor. If found

to fulfill the requirements of the specifications, such stones as have been destroyed shall be replaced at the expense of the party making the complaint.

Cement—In the construction of artificial stone flagging, curbing or driveways, for which Portland Cement is specified, the same must be of a well known and standard brand, equal to the best foreign manufacture. It shall leave by weight a residue of not more than three (3) per cent on a No. 50 sieve and fifteen (15) per cent on a No. 100 sieve. The sieves being of wire cloth of No. 35 and No. 40 wire (Stubb's Gaugé), having 2,500 and 10,000 meshes to the square inch, respectively.

Briquettes of neat cement one (1) square inch in cross-section shall develop the following average tensile strength:

Age 24 hours (in water after hard set).....125 lbs.

Age 7 days (one day in air, 6 days in water)...400 lbs.

Age 28 days (one day in air, 27 days in water)..500 lbs.

Sec. 559. **Hexagon Block Sidewalks.**—Where sidewalks shall be constructed of artificial stone hexagon blocks, said blocks shall be two (2) inches thick and not less than eighteen (18) inches across. The lower one and one-half (1 1-2) inches shall be composed of two (2) parts of clean, sharp, coarse sand and one (1) part of the best standard brand of English or German imported Portland Cement, and the upper one-half (1-2) inch shall be composed of one (1) part of clean, sharp, coarse sand to one part of cement. The foundation for sidewalk shall be composed of not less than six (6) inches of cinders, on which shall be spread one and one-half (1 1-2) inches of cement mortar, which shall consist of two (2) parts of clean, sharp sand to one (1) part of the best American cement. Said foundation shall extend three (3) inches on either side of the walk proper to support the binder, which shall be beveled off from the top surface of the walk proper to the outside edge of the foundation; this binder shall be composed of one (1) part of clean, sharp sand mixed with one (1) part of the best Portland Cement.

Sec. 560. **Brick Sidewalks.**—Where sidewalks shall be constructed of brick, the brick shall either be vitrified or hard burned, true, smooth and well shaped, and shall be either set on edge or laid flatwise on a foundation of six (6) inches of cinders or four (4) inches of sand, which shall be well tamped before laying the brick. The sidewalk to be well rolled or tamped until the surface

is smooth and true; after the brick are laid a light coat of fine sand shall be spread over the entire surface.

Sec. 561. Second-Class Sidewalks.—Sidewalks constructed of plank shall be deemed second-class sidewalks and shall be constructed of plank not less than five feet long, six inches wide, and two inches thick, made from pine, cypress, white or burr oak lumber, laid on three sleepers of pine, cypress or white or burr oak scantling, four by four inches in dimensions, the joints of sleepers to be well broken, and each joint secured by a cleat, four inches wide and two feet long, nailed to the sides of the sleepers; in places below the grade of the street, the sidewalk shall be supported upon trestles of pine, cypress or white or burr oak lumber, the posts to be four by four inches, and the ties to be two by six inches, placed not more than six feet apart. When any sidewalk is to be paved or planked, the making of railing or fencing, to reasonably secure persons from falling off the same into dangerous places adjoining either side of said sidewalk, shall be deemed a part of the work, and paid for accordingly.

Sec. 562. Property Owner Building Sidewalk—Penalty.—Whenever any property owner desires to build a sidewalk conforming to the general specifications for sidewalks contained in the Revised Ordinances, he may apply to the City Engineer for a permit so to do, and the City Engineer shall thereupon issue to him a permit to build such sidewalk, stating the character of sidewalk to be laid and the location thereof, and upon the completion of such sidewalk in accordance with the specifications contained in the Revised Ordinances, it shall be the duty of the City Engineer to issue to the property owner a written acceptance thereof; *provided*, however, that the City Engineer shall issue no such permit to any property owner or other person for the building of any sidewalk within the limits defined by any ordinance of the Common Council for the building of a sidewalk which has become a law before the time when such property owner or other person desires to secure such permit; but in all such cases the contractor to whom the work of building the sidewalk has been awarded by the City under such ordinance shall build the sidewalk the entire length thereof as defined in the ordinance, and no such permit shall be granted until an ordinance has been passed by the Council determining the kind of sidewalk which may be built between certain points on the street in question, and including the line in front of the premises of such prop-

erty owner; *provided*, further, that any person who shall build or construct any sidewalk without a permit from the City Engineer shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than twenty-five (\$25) dollars nor more than three hundred (\$300) dollars.

Sec. 563. **Ice, Snow, Etc.—Repairs.**—It shall be the duty of all persons, owning or occupying any real property, fronting upon any street, to keep the sidewalk, curbing and guttering in front and along side of such property and on the same side of the street, in good repair and order, and to clean the same, and remove from any such sidewalk, curbing and guttering all ice, snow, earth or other substance that in any wise obstructs or renders the same dangerous, inconvenient or annoying to any person.

Sec. 564. **Repairs of Curbing, Guttering, Etc.**—No owner or occupant of any house, building, lot or premises (and in case several persons occupy the same house or building, then the one occupying the first floor next the sidewalk), shall permit or allow the sidewalk or any cellar door or grating or stairway in such sidewalk or any curbing or guttering in front or along side of such house, building, lot or premises, to be or remain out of repair, or shall suffer or allow such sidewalk, curbing or guttering to be or remain above or below the established grade of the same. By the term "repair" as used in this article, shall be deemed and understood to mean and embrace whatever is necessary for the preservation of such sidewalk, curbing, guttering, cellar door, grating or stairway, and to render the same safe and convenient for the public.

Sec. 565. **Listing Lots With City Engineer.**—Every resident owner of real estate or other resident person having charge or control of real estate within the corporate limits of Kansas City, shall file with the City Engineer a list of all lots, pieces or parcels of land owned or controlled by him or her, giving an accurate description of the same by number of the lot and block and name of the Addition, or otherwise, together with the name and address of the owner or agent, as the case may be. Notifications of any change in the ownership or control of real estate already listed shall be made likewise to the City Engineer. Notifications to repair shall be made only to the owners or agents of property listed as provided in the succeeding section. Said lists of property owners or agents shall be recorded by the City Engineer in a book to be kept

by him for that purpose and shall be corrected from time to time as he may be notified so to do by said owners or agents.

Sec. 566. Notice to Repair Sidewalk.—Whenever any sidewalk shall require reconstruction or repair, it shall be the duty of the City Engineer to notify the owner or agent of the real estate in front of which such reconstruction or repair shall be necessary, to make the needed repairs within ten days from the date of said notice; *provided*, the name and address of the owner or agent of said real estate shall be recorded in a book kept for that purpose. No notice to reconstruct or repair sidewalks shall be sent to the owners or agents of real estate not listed as provided in the preceding section; but all such repairs shall be made by the City contractor, upon notice from the City Engineer and without notifying the property owner or agent.

Sec. 567. Second Notice.—Should the repairs made by the owners or agents be unsatisfactory to the City Engineer, he shall send a second notice requiring the proper repairs to be made within three days from the date of the notice, and if satisfactory repairs are not made within that time, the City Engineer shall order the work done by the City Contractor.

Sec. 568. Repairing Without Notice.—Whenever the sidewalks in front of any real estate shall be deemed by the City Engineer or subordinates to be in such a dangerous condition as to require immediate repair, the City Engineer may, without notice to the owner or agent of said real estate, order the necessary repairs to be made by the City Contractor.

Sec. 569. Railings to Sidewalks.—Every owner and occupant of any house, building, lot or premises, in front of or along side of or adjoining which there is any sidewalk (and in case several persons occupy the same house or building, then the one occupying the first floor next the sidewalk), shall cause to be erected and maintained and kept in good repair a good, substantial and sufficient railing or barrier on either or both sides of such sidewalk where the same is, in the opinion of the City Engineer, three feet or more above the level of the street or adjoining lot. Such railing or barrier shall be at least two and one-half feet high, of good material, and shall be securely attached and fastened to such sidewalk with good and sufficient props and stays, and the work pro-

vided in this section to be done, is hereby declared also to be repairs of any such sidewalk, curbing or guttering.

Sec. 570. Replacing Sidewalks.—Whenever any grading or other public improvement shall be done upon any street in Kansas City, whereby it becomes necessary to take up or remove any sidewalk or whenever any sidewalk shall be taken up, the person or contractor who may be doing the work of grading or other improvements under any contract with the City, and who shall take up or remove any sidewalk, shall be required to replace the same after such grading or other improvements shall be completed, and restore the same to the same place and in as good condition as it was when so taken up or removed.

Sec. 571. Duties of Engineer.—It is hereby made the duty of the City Engineer to see that the requirements of the preceding section are fully complied with by any person or persons who may hereafter do any grading or perform any other public work upon any of the streets of the City where any sidewalks may at the time be located.

Sec. 572. Contracts for Repairs.—The Board of Public Works is hereby authorized and empowered to let and enter into contracts for the reconstruction and repairing of first-class and plank sidewalks and curbing within the City limits. Said contracts shall be for such time not to exceed one year, as the Board shall see fit.

Sec. 573. Letting by Board of Public Works.—The board shall, at its discretion, divide the work of reconstructing and repairing such first-class and plank sidewalks and curbing into districts or divisions, as it may see fit, and it shall cause to be published in the newspaper at the time doing the City printing, for ten (10) days a notice of the time of letting of such work; said work in each district or division to be let to the lowest and best bidder, who shall enter into contract with Kansas City, to reconstruct or repair such first-class and plank sidewalks or curbing at such places and in such manner and to such extent as may be ordered by the Board of Public Works during the time and continuance of such contract.

Sec. 574. Special Tax Bills for Repairs.—The cost of such work of reconstructing and repairing shall be charged as a special tax against and upon the lands, parcel or parcels of land fronting

on the spot where such work may be done; *provided*, that the cost of reconstructing or repairing any sidewalks or curbing shall be charged on the land adjoining that side of the street, avenue or public highway where the spot repaired may be.

Sec. 575. Inspection of Sidewalks.—It shall be the duty of the Board of Public Works to cause all first-class and plank sidewalks and curbing to be inspected at least once every three months, and whenever any sidewalks or curbing shall be found to be in need of reconstruction or repair, they may notify the owner or occupant of the property liable to be charged with the cost of such reconstruction or repairs, to make any and all such reconstruction or repairs as the said Board may deem necessary, within such time, not less than ten days from the date of said notice, as the Board may designate, but no special tax bill that may be issued to pay for the work shall be held invalid or be affected for the reason that the owner or occupant has not received such notice. Whenever such owners cannot conveniently be found, or shall neglect or refuse to comply with such requirements, the said Board shall notify the inspector whose duty it shall be to inspect and report to said Board the number of feet of such sidewalk or curbing to be repaired. The contractor or contractors of any district shall have no authority to remove or repair or reconstruct any more of such sidewalk or curbing than is specified in the instructions received by them from the Board of Public Works. The said Board shall notify the contractor within whose district it may be, to perform the work, specifying how many feet of sidewalks or curbing it deems necessary to be repaired, and requiring that the work be completed within such time as it may designate. The contractor immediately upon the completion of any such work, shall notify the Board of Public Works, and the Board shall cause the same to be inspected and approved by an inspector designated by it for the purpose, before any tax bill shall be issued in payment therefor.

Sec. 576. Issuing Tax Bills For Repairs.—The Board of Public Works shall, at the beginning of each month, compute, apportion and charge the cost of all work done under contract for the reconstruction and repairing of sidewalks and curbing as herein provided, during the preceding month on the land liable therefor and shall make out and certify in favor of the contractor or contractors to be paid, a special tax bill against each lot or parcel of land liable for its share of the cost therefor, for the amount of work done in

front of or adjoining such land, and bearing interest at the rate of ten per cent per annum from the date thereof; *provided, however*, that if such tax bill shall be paid within thirty days from the date thereof there shall be no interest charged thereon.

Sec. 577. City Not Liable.—All contracts entered into under this ordinance shall contain a clause providing that Kansas City shall not be liable to pay for such work, or any part thereof, unless for land owned by the city, otherwise than by the issue of special tax bills as aforesaid.

Sec. 578. Cross Walks.—Whenever sidewalks shall have been constructed upon any street or part of a street other than a paved street in this city, it shall be the duty of the department of street repairs to immediately construct street crossings between the blocks along which said sidewalk or sidewalks may have been built and also across the alleys running through said blocks.

Sec. 579. Sidewalks to be Replaced—Penalty.—That whenever any contractor, having a contract with Kansas City, for the grading of any street, avenue, highway, or public place, shall take up, disturb, destroy, misplace or remove or injure any sidewalk in the doing of such grading, it shall be his duty to restore, replace and repair such walk to its former place and condition within ten days after the grading in the place where such sidewalk was located, is completed. Failure, neglect or refusal of any contractor after the time hereinafter specified, to replace, restore and repair any sidewalk to its former location and condition, when same has been removed, misplaced, injured, or disturbed, as provided herein, shall be and hereby is declared a misdemeanor; and each and every day which shall elapse after the expiration of five days from the receipt by such contractor, of notice in writing from the City Engineer, to replace, repair or restore, any such sidewalk shall constitute a separate and distinct offense, and such offense shall be punishable on conviction thereof, by a fine of not less than five (5) dollars, nor more than five hundred (500) dollars.

ARTICLE VI.

STREET EXCAVATIONS AND OBSTRUCTIONS.

| Section. | Section. |
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| 580. Permits for Excavating. | 594. Vaults, Areas, Coal Holes, Etc. |
| 581. Application for Permits. | 595. Lights and Barriers. |
| 582. Rules for Excavating. | 596. Same. |
| 583. Liability to Repair. | 597. Replacing Material. |
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| 591. Indemnity to City. | 605. Vehicles. |
| 592. Removing Stone, Etc. From Street. | 606. Coal, Fuel, Etc. on Sidewalks. |
| 593. Penalty. | 607. Ashes, Glass, Etc. |
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Charter, Art. III, Sec. 1, Cls. 11, 24.

Sec. 580. **Permits for Excavating.**—No person, firm or corporation shall dig or excavate, or cause to be dug or excavated, within, through or under any street, alley or sidewalk, or public place, within Kansas City, for any purpose whatever, without a permit therefor. Said permit shall be obtained from the Board of Public Works and shall only authorize work to be done by and under the direction and control of such persons and corporations as shall comply with the following regulations and conditions, to-wit: They shall execute and file with the City Comptroller a good and sufficient bond, with such securities as said Comptroller may approve, in the sum of one thousand dollars, conditioned that all their work shall be well and promptly executed, and that they and their servants shall take all reasonable precautions to prevent accidents or injuries to persons or property by reason of negligence or carelessness in doing said work, and shall save Kansas City harmless from loss or claim for damages by reason of such neglect or carelessness. They shall keep and maintain with the City Treasurer a sum of money not less than twenty-five dollars, which sum, or so much thereof as may be necessary, shall be used under the direction of the Superintendent of Repairs of the Department of Street Repairs in repairing any injury to any street, alley or sidewalk, by reason of any work done by them, or in placing any such street, alley or sidewalk in safe or proper

condition, and should the amount of said deposit with the treasurer be less than twenty-five dollars for any five consecutive days the permit shall thereby become void.

Sec. 581. Application for Permits.—All applications for permits provided for in this article shall be signed by the person or duly authorized agent of the person, firm or corporation who desire to do the work therein contemplated, and shall state in plain terms the location and object of such permit, and the probable time of completion of the work.

Sec. 582. Rules for Excavating.—The Board of Public Works may, in its discretion, prescribe rules and conditions to be followed and performed as may be necessary for the safety of the street or sewer through which or with which a permit may be issued to excavate or connect.

Sec. 583. Liability to Repair.—Any person to whom a permit shall be issued for any work as provided in this article may, upon the completion of the work therein mentioned, present said permit to the said Superintendent of Repairs for his endorsement and acceptance of the same, and such acceptance shall release said person from any further liability to repair said street or to be at a further expense on account thereof, and shall entitle him to any of said deposit remaining in the treasury.

Sec. 584. Restoring Street to Previous Condition.—Any person to whom such permit shall be issued, who shall fail to restore the streets, alley, curb or gutter or sidewalk to the satisfaction of said superintendent, and restore it to its former condition, shall be liable for the labor and expenses necessary to so restore the same. Whenever it shall appear to the Superintendent of Repairs that any work done under such permit shall not have been properly done, or the street or alley, curb, gutter and sidewalk, properly restored, when disturbed or removed on account of any work done under any permit provided for in this article, said superintendent shall cause the same to be properly replaced and restored, and shall certify the cost thereof to the City Treasurer, who shall pay the same immediately out of the amount of money deposited by the person or corporation to whom said permit was issued, and shall immediately notify said person or corporation to deposit such additional sum in the City Treasury.

Sec. 585. **Same.**—That any person, firm or corporation, licensed or unlicensed, who shall fail, neglect or refuse, within ten days after excavating in any street, avenue, alley or highway in this city, to restore the street and pavement to the condition the same was in before said excavating was done, shall forfeit and pay to the city double the cost of the expense incurred by the Superintendent of Repairs, in restoring said street to said condition, under the provisions of the preceding section, and in case of such failure, refusal or neglect to restore any street or pavement to its former condition within said ten days, the Board of Public Works may, in its discretion, refuse to countersign and permit authorizing the doing of any excavating in any street or pavement, by the said person, firm or corporation, until the defective street or pavement is restored to its former condition. Whenever the Superintendent of Repairs is obliged to do the work of restoring any street, alley, avenue or highway, to its former condition, such restoration being necessitated by the failure of any person, firm or corporation to comply with the terms of this section, the forfeited money specified herein shall be taken out of the deposit made by said offending party, under the terms and provisions of Section 580 this article and said amount so taken from said deposit as aforesaid shall be credited to the Board of Public Works Department.

Sec. 586. **Additional Permit—Specifications for Repairing.**—That all persons, firms or corporations desiring to excavate in paved streets or alleys, or under first class sidewalks, shall first take out, in addition to the permit granted by the Board of Public Works a permit from the City Engineer, or his authorized agents. Such permit is subject to the following specifications for repairing and must be signed by the City Engineer or his authorized agents.

Specifications:

The City Engineer must be notified when trenches are to be re-filled and the concrete base and pavement are to be re-laid. All re-filled trenches in earth must be so thoroughly tamped that no excavated material will be left out; in rock trenches if the rock is used in re-filling, it must be so broken that no stone will exceed four (4) inches in diameter and the back filling shall be well rammed.

In paved streets the concrete shall be put in not less than ten (10) inches thick, the surface of which shall conform to the adjacent surface of the street. The surface of the pavement shall conform to the finished surface of the street and in the case of brick, they shall be well toothed into the adjoining pavement.

All re-filling and paving to be done under the inspection and to the satisfaction of the City Engineer. In case any trench shall settle, or the repairs prove defective, it shall be repaired without regard to time that may have elapsed since the date of the permit at the expense of the party to whom the permit was issued.

Said permit, or a copy, must be returned within fourteen (14) days, stating that the street, pavement, or sidewalk, or anything else that may have been disturbed, are in good condition and all repairs have been made with the above stipulation. No new permit will be granted where such return has not been made.

After fourteen (14) days from the date of said permit the Superintendent of Repairs shall have authority to cause all repairs which have been rendered necessary on account of work done under said permit to be made and the same to be paid for from the cash deposited with the City Treasurer by the party taking out said permit.

No one shall be entitled to a new permit who has not repaired previous work done by him in accordance with the above specifications and made proper return of the same in writing to the City Engineer.

Sec. 587. Connections Prior to Paving.—Within the sixty days next preceding the time in which any street or avenue shall be paved or improved with any permanent brick, stone, asphalt or wood block pavement, the Board of Public Works shall cause notice of the laying of such pavement to be published in the official paper of the city; and shall notify the owners of all property fronting thereon, to cause all gas, water and sewer connections to be made from the gas or water mains or sewers to the lines of curb on said street, before such pavement shall be laid; and that after the laying of such pavement no permit shall be issued to remove the same, or in any manner to disturb said pavement.

Sec 588. Connections by Tunnel.—The Board of Public Works may, in its discretion, issue permits under such rules and conditions as it may prescribe for the making of such connections underneath said pavement by a tunnel.

Sec 589. Excavating Without Permit.—Any person building on or occupying any portion of a street or alley, gutter, curb or sidewalk or public place, or digging or excavating as aforesaid, or opening or connecting with any sewer, culvert, adjunct, pipe or main

without first obtaining a permit, or after said permit may have become void, as herein prescribed, or violating such permit, after the same shall have been obtained, shall be deemed guilty of a misdemeanor.

Sec. 590. **Continuing Penalty.**—A conviction under any provision of this article shall also work a forfeiture of such permit, if the same shall have been issued, and the party convicted shall be subject to a fine of not less than one dollar nor more than five hundred dollars, for each and every day he shall continue such building, or occupy any portion of a street, alley, gutter, curb, sidewalk or public place, or continue such opening in or connection with any sewer, culvert, adjunct pipe or main, or leave either unrepaired after such conviction.

Sec. 591. **Indemnity to City.**—Every application for a permit under this article shall contain an agreement to save the city harmless from all costs and damages which may accrue by reason of such use, occupancy, digging or excavation as the case may be.

Sec. 592. **Removing Stone, Etc., From Street.**—No person shall, with his own hand, or by another under his direction, dig up, remove or loosen, take or carry away, any stone, brick, lumber, plank, blocks, earth, sand, gravel or any other material composing any street, avenue, alley, sidewalk, crossing or public ground, whether the same be free or loosened or not, without obtaining a permit from the Board of Public Works.

Sec. 593. **Penalty.**—Any person, who shall dig or excavate any earth on the public streets and alleys of this city, or remove any earth therefrom without first having obtained a permit from the Board of Public Works therefor shall be guilty of a misdemeanor, and on conviction, shall be fined not less than ten dollars nor more than two hundred dollars for each offense, or by imprisonment not to exceed three months, or by both such fine and imprisonment.

Sec. 594. **Vaults, Areas, Coal Holes, Etc.**—No person shall dig or cause to be dug in, near or adjoining any street, avenue, sidewalk, alley or other public place any vault, area, coal hole, basement, cellar or opening, without covering the same, and securing the grating or covering thereof in such manner as to prevent persons,

animals or vehicles from falling therein; nor shall any person keep, maintain or leave open any cellar door, grating or stairway of any vault, cellar, basement, area or coal hole, in, near or adjoining any sidewalk, alley, highway or other public place; nor shall any person suffer or allow any such cellar door, grating or stairway in front or along side of any house, building, lot or premises, owned or occupied by him, to be or remain open, in an insecure condition or out of repair.

Sec. 595. Lights and Barriers.—Every person who shall for any purpose, make or cause to be made any excavation in, upon, under, near or adjoining any street, avenue, sidewalk, alley or other public place, and shall leave any part or portion thereof open, or shall leave any part or portion thereof obstructed with rubbish, building or other material, during the night time, shall cause the same to be enclosed with good, substantial and sufficient barriers not less than three feet high, and shall also place a red light at each end thereof in such a position as to shed its light upon such excavation or obstruction, and shall keep such lights burning from sunset to sunrise.

Sec. 596. Same.—Every person who shall in any manner, render or cause to be dangerous any street, avenue, sidewalk, alley or other public place, shall, from sunset to sunrise, provide and properly place such barriers and lights around such dangerous place as are in the preceding section required.

Sec. 597. Replacing Material.—All persons making or causing any excavation in or upon any macadamized street or avenue, under permit of the Board of Public Works shall first carefully remove all of the macadam and paving, and place the same to one side, to prevent any admixture with other material. All other material removed from such excavation shall be carefully replaced in layers of six inches, and each layer well beaten down, until such excavation shall be filled to the bottom of the macadam, after which the paving and macadam shall be replaced in the same manner as before the excavation was made. All surplus material shall be immediately removed by such person and the surface of the street left smooth and uniform.

Sec. 598. Street Sweeping Machine.—No street sweeping machine shall be placed in operation on any street, avenue or public

highway except during the hours between eleven o'clock p. m. and five o'clock a. m., and any person using or driving such machine in operation excepting during the hours herein specified shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be subject to a fine of not less than five dollars nor more than fifty dollars; *provided, however*, that nothing in this section shall apply to such street sweeping as may be done by and under the supervision of the Commissioner of Street Cleaning.

Sec. 599. Location of Hydrants.—No hydrants for use of street sprinkling carts or wagons shall be located in any street, avenue, alley or public highway or on public property without a permit therefor from the Board of Fire and Water Commissioners, and any permit so issued shall be subject to revocation by the said board at any time, whenever in the opinion of the board, public interests require it. The revocation of the said board shall be in writing and shall specify the number of days within which the removal of the hydrant shall be required and the failure to comply with the orders of the board requiring the removal of any hydrant shall subject the owner thereof to a fine of ten dollars a day for every day's delay after the time specified for removal shall have expired.

Sec. 600. Removing Buildings.—No person shall remove, or cause to be removed, any house, shanty or other building through or upon any street, avenue, alley, sidewalk, public square or other public place without written permission from the superintendent of buildings, but in no event shall such house, shanty or other building be allowed to remain at any one point on any such street, avenue, alley, sidewalk, public square or other public place longer than one hour, save in the night time; nor shall anyone, at any time, place, leave or haul any such house, shanty or other building in or upon any street car track, or so near the same as to obstruct the free passage of street cars thereon.

Sec. 601. Buildings on Streets and Alleys.—No person shall build, construct, use, maintain or in any way occupy any house, shanty or other building of any kind located in or upon any street, avenue, alley, sidewalk or public square.

Sec. 602. Removal of Buildings by Chief of Police.—If any person shall be found guilty of violating, failing, neglecting or refusing to comply with any provision, regulation or requirement of

the next two preceding sections, the court shall, in addition to the usual fine, adjudge that such house, shanty or other building be immediately removed by the Chief of Police of Kansas City, who shall forthwith report the expense thereof to the court, and the costs of such removal shall be taxed by the court as part of the costs of the case.

Sec. 603. **Obstructions on Coal Holes, Areas, Etc.**—No owner or occupant of any house, building, lot or premises, in front or alongside of which there is any sidewalk, or any other person, shall build, construct, use, maintain or allow any cellar door or grating, or any covering of any vault, area, coal hole or basement, to rise or be above the surface of such sidewalk, or construct, maintain or allow any fastenings or hinges of such cellar door, grating or covering to be or remain on the upper side thereof.

Sec. 604. **Obstructions on Sidewalk.**—No person shall leave, place or deposit, or cause to be left, placed or deposited, in or upon any sidewalk, any article or thing whatever so as to obstruct or otherwise encumber the same; *provided*, that this section shall not be so constructed as to prevent merchants or manufacturers, while receiving or shipping their goods, wares or merchandise, from occupying for such purpose one-half of the sidewalk with such goods, wares or merchandise; but the same shall, in no event, remain longer than two hours upon such sidewalk.

Sec. 605. **Vehicles.**—No person shall place or leave, or cause to be placed or left, any hack, carriage, wagon, cart, dray, sleigh, sled or other vehicle without some beast of burden shall be properly harnessed thereto, in or upon any street, alley, avenue, sidewalk, public square, public wharf or dock.

Sec. 606. **Coal, Fuel, Etc., on Sidewalks.**—No person shall cast, throw, place or leave, or cause to be cast, thrown, placed or left, in or upon any sidewalk, footway or street crossing any coal, coke or firewood, or shall saw, or cause to be sawed, any firewood in or upon any sidewalk, footway or street crossing.

Sec. 607. **Ashes, Glass, Etc.**—No person shall put or place, or cause to be put or placed, in or upon any street or other public place in the city any ashes, glass, crockery, scrap iron, nails, tacks or any other articles which would be liable to injure or damage the

tires or wheels of bicycles or any other vehicles which have wheels with rubber or pneumatic tires.

Sec. 608. **Obstructing Streets.**—No person, except merchants in the transaction of their daily business, shall deposit, place or leave any material, article, substance or thing on any street, alley, curb, gutter, sidewalk or public place of this city, without first obtaining a permit therefor from the Superintendent of Buildings. The said Superintendent may, in his discretion, authorize the use of a portion of any street, alley or sidewalk, for a reasonable time, and to such extent as he may deem necessary.

ARTICLE VII.

SEWERS, DRAINS AND CULVERTS.

Section.

- 609. What Included in Sewer Contract.
- 610. Advertising for Bids.
- 611. Letting of Contracts.
- 612. Plans and Specifications.
- 613. Recording of Contracts.

Section.

- 614. Guards, Lights and Barriers—Penalty.
- 615. Payment for Sewers.
- 616. Liability of City.
- 617. Provisions of Contracts.
- 618. Connecting Private Sewers With District or Joint District Sewers.

Charter, Art. III, Sec. 1, Cl. 13, Art. VIII, Secs. 5, 6, 7, 8, 9, 10, 11.

Sec. 609. **What Included in Sewer Contract.**—Whenever any ordinance shall provide for the construction of any public sewer, district or joint district sewer, drain or culvert, the same shall, unless therein otherwise specially provided, be deemed and taken to require that all excavation and materials necessary for the work shall be done and furnished by the contractor or contractors; that all necessary laterals, inlets and other appurtenances shall be constructed and that, after the work of constructing the sewer proper shall be completed, the excavation over and around the same shall be filled in with earth or stone by the contractor or contractors, all as part of the work, so as to protect the same and leave the surface of streets, avenues, alleys, lots and other places over the same, level and safe, and in as good condition as before the work was commenced.

Sec. 610. **Advertising for Bids.**—Unless the ordinance for causing a public sewer, district or joint district sewer, drain or cul-

vert to be constructed otherwise provide, the Board of Public Works shall advertise for bids for doing the work, in the official newspaper of the city, for the same length of time and in the same manner as may be provided by ordinance for advertising for bids for grading streets or avenues.

Sec. 611. Letting of Contracts.—Contracts for constructing such public sewers, district or joint district sewers, drains or culverts shall, before taking effect, be let, executed and approved, in all respects, as far as practicable, in the same manner as contracts for grading are let, executed and approved, when the cost of the grading is to be paid for in special tax bills.

Sec. 612. Plans and Specifications.—Before advertising for bids for doing any of the work mentioned in the first section of this chapter, the Board of Public Works shall cause to be made out by the City Engineer detailed plans and specifications for the work to be done, and keep the same on file in his office for information of all desiring to bid on the work.

Sec. 613. Recording of Contracts.—Every contract entered into for doing any such work shall refer in apt terms to said plans and specifications unless the same are set out therein in full. Said plans and specifications, together with the contract for doing the work, shall be recorded by the City Engineer in a book to be provided for that purpose, as soon as practicable after a contract for doing the work is executed and approved.

Sec. 614. Guards, Lights and Barriers—Penalty.—Any ordinance for causing to be done any of the work mentioned in the first section of this chapter shall, unless therein otherwise expressly provided, be deemed to require that the contractor or contractors shall at his or their own cost, provide lights, guards, fences and other proper means to protect persons and property from injury and damage on account of said work, from the commencement to the completion thereof. The said contractors shall indemnify the city against any loss by reason of the violation of this requirement or any obligation imposed by the contract. Any person or persons who shall improperly remove, interfere with, destroy or displace the lights, guards, fences and other means of protecting persons and property from injury and damages on account of the doing of work required to be provided by this section shall be deemed guilty of a

misdeemeanor, and upon conviction thereof shall be subject to a fine of not less than five (5) dollars nor more than twenty-five (25) dollars.

Sec. 615. Payment for Sewers.—Whenever any ordinance shall provide for the construction of any district or joint district sewer, the same shall, unless therein otherwise expressly provided, be deemed to require that the cost of the work shall be paid for in full by special tax bills, as provided in Section 11 or Article VIII of the City Charter.

Sec. 616. Liability of City.—When the cost of constructing any district or joint district sewer is to be paid for in special tax bills, as aforesaid, the city shall, in no event nor in any manner, be liable for or on account of the work; and the contractor for such work, at the time said bills are delivered to him, shall receipt therefor, at the foot of the register thereof, in full of all claims against the city on account of said work.

Sec. 617. Provisions of Contracts.—The provisions of this article shall be deemed and taken to be a part of every contract let for the doing of any of the work mentioned in the first section hereof.

Sec. 618. Connecting Private Sewers With District or Joint District Sewers.—No permit shall be issued to connect any private sewers or drainage from any private property with a district or joint district sewer, if such property or any part thereof has been assessed for the construction of district or joint district sewers, and special tax bills have been issued evidencing such assessment until such assessment or part thereof has been paid, if at the time said permit is applied for, such assessment or any part thereof shall be due, but if no part thereof is due, when the permit is applied for, then before such permit shall be issued, the owner of said property shall file with the Board of Public Works a written agreement not to contest such assessment and to pay such assessment when the same becomes due; and any permit issued where the assessment are not due as aforesaid shall contain the provision that the right to connect with said district or joint district sewers, shall cease, if any person interested in said property shall contest the validity of said assessment and if such contest shall be made, all right under such permits shall cease; *provided*, that if the lien of any such tax bills shall have ex-

pired under the provisions of the Charter of Kansas City, and no suit has been brought to enforce the same as in said Charter provided, said tax bills shall be presumed to have been paid and said permit may be issued without making the payment or without filing the agreement herein provided; *provided, further*, that if the owner or anyone interested in said property shall show that any such district or joint district sewer is not constructed in substantial compliance with the ordinance and contract providing for the same, in such case the owner or any person interested in such property shall only be required to pay such an amount as the court shall find that such district or joint district sewer benefits the said property, such amount in no case to exceed the amount of said special tax bill and interest thereon.

ARTICLE VIII.

BLASTING.

Section.

619. Permit for Blasting.

620. Weights to Be Used.

Section.

621. Storage of Explosives.

622. Penalty.

Sec. 619. **Permit for Blasting.**—No person shall do or cause to be done any blasting within the city limits without first obtaining from the City Engineer a permit therefor, which shall be issued only on condition that the City Engineer is satisfied that the applicant is, in every particular, a safe, careful and suitable person to use, and an expert in the use of, all explosives used in blasting, but no permit shall, under any circumstances, be issued to anyone until the applicant therefor has entered into a bond to Kansas City in the sum of not less than one hundred dollars nor more than ten thousand dollars, as the City Engineer may require, with at least two securities, to be approved by the City Comptroller, conditioned that such person will carefully and prudently use such explosive, and will pay any and all damages caused any person by the use thereof. And any person may sue on such bond in his own name for any damage caused him by the use of such explosives.

Sec. 620. **Weights to Be Used.**—Whenever any of the explosives mentioned in the preceding section are used, there shall be carefully placed on the object to be blasted sufficient plank or such

other covering as the City Engineer may direct, not less than two inches in thickness, and there shall be placed thereon a weight of not less than five hundred pounds.

Sec. 621. **Storage of Explosives.**—None of the explosives in this chapter described shall be stored in any one place in a quantity exceeding fifty pounds within the city limits, and when stored in such quantity or less, the same shall be placed in an iron safe or vault, which shall be securely fastened and made inaccessible to every person except some one who holds a permit from the City Engineer to use the same, and the person receiving such permit shall file with the Chief of the Fire Department a description of the location of such vault or safe.

Sec. 622. **Penalty.**—Every person violating any of the provisions of this article shall, on conviction therefor, be fined not less than twenty-five (\$25) dollars nor more than three hundred (\$300) dollars; or shall be confined in the city jail or workhouse not less than one nor more than six months; or shall be punished by both such fine and imprisonment.

ARTICLE IX.

EIGHT HOUR LAW.

| Section. | Section. |
|----------------------------------|---------------|
| 623. A Day's Work. | 625. Penalty. |
| 624. Provision of All Contracts. | 626. Same. |

Sec. 623. **A Day's Work.**—Eight hours shall constitute a legal day's work for any and all persons in the employ of Kansas City, Missouri, and no person employed by said city directly or working under any contract which shall be let by said city to be performed within its corporate limits, shall be required to work more than eight hours in each day; *provided*, that in no case shall the city be liable to any officer or employe of the city for work or services of such officer or employe in excess of eight hours of any day.

Sec. 624. **Provision of all Contracts.**—All contracts hereafter made by Kansas City, Missouri, under which any work or labor is to be performed, shall contain a clause providing that eight hours

shall constitute a day's work under such contract in accordance with the preceding section.

Sec. 625. **Penalty.**—Any person, firm or corporation doing any work under a contract with Kansas City, who shall require or permit any employe on such work to work longer than eight hours of any day shall be deemed guilty of a misdemeanor, and any person, firm or corporation violating any provision of this chapter, or neglecting, or failing, or refusing to comply with the same, shall be deemed guilty of a misdemeanor, and upon conviction be fined not less than one nor more than five hundred dollars where no other penalty is specially provided.

Sec. 626. **Same.**—Any person, firm or corporation failing, neglecting or refusing to comply with any provision of this chapter shall, on conviction, where no other penalty is provided, be fined in any sum not less than one nor more than five hundred dollars.

ARTICLE X.

PARKS AND BOULEVARDS.

Section.

- 627. Contracts to Lowest and Best Bidder.
- 628. Plans, Notice of Bids, Etc.
- 629. Bids, How Addressed—How Opened.
- 630. Bids—Bond—Cash Deposit.
- 631. Bids, Time of Opening—Rejection.
- 632. Bond—Time of Completion of Contract—Extension.

Section.

- 633. Contract in Writing—Approved by Counsellor and Common Council.
- 634. Failure by Contractor—Next Lowest Bidder.
- 635. Provisions of Contract.
- 636. Certain Streets Under Supervision of Board of Park Commissioners.

Charter, Art. VIII.

Sec. 627. **Contracts to Lowest and Best Bidder.**—That the doing of all work and the furnishing of all material for the construction, improvement, maintenance, or repairs of any park, public square, parkway, boulevard, avenue, or parts thereof, which may be under the control and management of the Board of Park Commissioners, shall be let by said board to the lowest and best bidder, in the manner hereinafter provided, except in cases where, in the judgment of said board, it is not practicable to do such work or furnish such material by contract, and all materials necessary for such con-

struction, improvement, maintenance, or repairs not furnished by contract as aforesaid, may be purchased by said board in such manner as it may deem best.

Sec. 628. Plans—Notice of Bids, Etc.—That all construction and improvements done in or upon the public parks, public squares, parkways and boulevards of the City of Kansas City, under the direction or supervision of the Board of Park Commissioners, which are let by contract to the lowest and best bidder, shall be let in the following manner, to-wit: As soon as said Board of Park Commissioners or the Common Council shall determine upon the doing of any such work, said board shall cause the necessary plans and specifications therefor to be prepared, and as soon as practicable thereafter shall cause to be published for ten (10) days prior to the time named for opening bids, in the newspaper doing the city printing, or if there be none, in such daily newspaper published in the city as the said board may select, a notice of the letting of the contract for such work to the lowest and best bidder; such notice shall state generally the nature of the work to be done, where the plans and specifications therefor may be seen, and the days when such bids will be opened.

Sec. 629. Bids—How Addressed, Etc.—How Opened.—That all bids for such work shall be signed by the bidder and enclosed in a sealed envelope directed to the Board of Park Commissioners of Kansas City, and shall not be opened until the day fixed therefor, and then only by the president or president *pro tempore* of the said board at an open meeting thereof, at which a quorum of said board shall be present.

Sec. 630. Bids—Bond—Cash Deposit.—That each bid shall be accompanied by a bond to the City of Kansas City approved by the City Comptroller, in the sum of two hundred (\$200.00) dollars, executed by the bidder, with two or more responsible sureties, to be paid as liquidated damages and not as a penalty, in case the bidder, on the acceptance of his bid, shall fail to enter into a written contract to do the work bid for according to the terms of his bid, when thereto required by the Board of Park Commissioners, or in case the bidder, after entering into the contract aforesaid, shall fail to begin the work in good faith within the time specified in said contract; *provided, however*, that when the estimate of said board of the work to be let shall exceed the sum of two thousand (\$2,000.00) dol-

lars, then each bidder, in lieu of such bond, shall deposit with the City Comptroller the sum of two hundred (\$200.00) Dollars to be forfeited and retained by Kansas City, and paid into the City Treasury by the Comptroller for the use of the general park fund, as liquidated damages and not as a penalty, in case the bidder shall fail to enter into a written contract to do the work bid for, according to the terms of the bid, within fifteen days after he has been notified by said board that the contract is ready for execution, or in case the bidder, after entering into the contract as aforesaid, shall fail to begin the work in good faith within the time specified in said contract.

Sec. 631. **Bids, Time of Opening—Rejection.**—That all bids shall be opened on the day so fixed between two o'clock and five o'clock p. m., and the lowest and best bid shall be accepted by said board; *provided, however*, that said board may reject any and all bids if deemed too high or the parties bidding are considered irresponsible, or do not conform to the specifications of the board in preparation of their bids, or for any other good reason.

Sec. 632. **Bond—Time of Completion of Contract—Extension.**—That the performance of all contracts let as aforesaid shall be secured by bond with at least two responsible sureties or by a good and solvent surety company; said bond and sureties to be approved by the Board of Park Commissioners and City Comptroller in such amount as may be determined by said Board of Park Commissioners. All contracts let as aforesaid shall specify the time in which the same shall be completed; and for failure on the part of the contractor to complete his contract within the time so specified may prescribe a fine or penalty of not to exceed fifty (\$50.00) dollars per day for each and every day after the expiration of the time so specified, which may be deducted by said Board of Park Commissioners from the amount of the estimate of such work due such contractor, said fines and penalties being claimed and deducted for damages for delay in completion of any such work; and should any such contingency arise in the prosecution of such work on any contract by delay caused or ordered by the Board of Park Commissioners or by circumstances beyond the control of the contractor, an extension of the time of completion of such contract may be made by said board and endorsed by said board upon said contract, giving the reason therefor; and said board may remit the penalties claimed for the time so extended; *provided, however*, that where payment for the work specified in the contract is

to be made by special tax bills any extension of time for the completion of such contract shall be made by authority of ordinance of the Common Council on recommendation of the Board of Park Commissioners, and such extension so authorized, together with the number and date of the approval of the ordinance authorizing the same, shall be endorsed on such contract by the secretary of the Board of Park Commissioners.

Sec. 633. Contract in Writing—Approved by Counselor and Common Council.—That immediately after the acceptance of a bid for any such work, said Board of Park Commissioners shall require the bidder to enter into a written contract with the city and the same shall be executed on behalf of the city by the president of said board, or in his absence, by the president *pro tempore* of said board, and shall be signed by the bidder and his securities. Every such contract shall be submitted to the City Counselor, or in his absence, or disability, to an Assistant City Counselor, for approval of the form thereof, which approval shall be endorsed thereon, and said contract shall be approved by resolution of the Board of Park Commissioners, said approval of the board to be endorsed thereon by the secretary of said board, and the contract shall bind and take effect from the time of approval and not before; *provided*, that where payment for the work is to be made in special tax bills the contract shall be reported to and be approved by the Common Council, and shall take effect from the time of such approval and not before. Said board shall thereafter record the contract, with all endorsements thereon, in a book to be provided for that purpose, and preserve the original in its office.

Sec. 634. Failure by Contractor—Next Lowest Bidder.—That if the party whose bid is accepted fail to enter into contract as aforesaid when thereto required by the said board, or after entering into said contract shall fail to begin the work in good faith within the time specified in the contract, said Board of Park Commissioners shall at once deliver the bond accompanied by said bid to the City Counselor for collection by suit, and the money when collected, shall be paid into the City Treasury to the credit of the general park fund of the city. The Board of Park Commissioners may then accept the bid of the next lowest and best bidder, who shall thereupon enter into contract as aforesaid, or the said board may advertise for new proposals, as in its judgment may be for the best interests of the city.

Sec. 635. Provisions of Contract.—That every such contract entered into by the Board of Park Commissioners as aforesaid shall contain a clause reserving to the board the rights to suspend or amend said contract for failure on the part of the contractor to fulfill the same, but such annulment or suspension shall not affect the rights of the city to all damages and penalties claimed by it on account of such contractor's failure; and every such contract shall contain a covenant on the part of the contractor or contractors with the city to pay for the work and labor of all laborers and teamsters, teams, and wagons employed on the job and for all material used therein, and performance of such covenant shall be guaranteed by the sureties signing the contract, but who shall not be liable beyond the estimated cost of the materials used and labor done upon the job to be stated in the contract; *provided, however*, that the city shall not be liable for the sufficiency of the contractors or sureties, nor for any failure to comply with or irregularity in complying with this provision. All persons furnishing labor or material to any such contractor or contractors may recover against said contractor and his sureties, or either of them, in the same manner and subject to the same conditions as are provided by the City Charter in case of contracts for making City improvements on streets, sidewalks, avenues, or alleys, or for constructing sewers. In case the work is to be paid for in special tax bills, such contract shall so specify.

Sec. 636. Certain Streets Under Supervision of Board of Park Commissioners.—Wherever a public street, avenue or other public thoroughfare is, or shall be, contiguous to any park, all of the portion of said street, avenue, or thoroughfare lying between the center line thereof and the boundary line between said park and said street, avenue or thoroughfare, shall be under the supervision, control and management of the Board of Park Commissioners; and said Board shall improve and regulate the same in such manner as it may deem best.

ARTICLE XI.

TREES.

Section.
 637. City Forester—Appointment.
 638. Qualifications.
 639. Term of Office.
 640. Compensation.
 641. Horse Hire.

Section.
 642. Duties.
 643. Planting Trees—Permits—Specifications.
 644. Trimming Trees—Permits.
 645. Branches of Trees.
 646. Penalty.

Charter, Art. VIII, Sec. 2.

Sec. 637.—**City Forester—Appointment.**—That the Board of Public Works is hereby authorized and it shall be its duty to appoint a person to be known as City Forester.

Sec. 638.—**Qualifications.**—The person to be appointed as City Forester shall be a resident of Kansas City, and shall have had practical experience in the planting and care of trees.

Sec. 639.—**Term of Office.**—The City Forester shall hold office at the pleasure of the Board of Public Works. He shall give his whole time to the duties of his office.

Sec. 640. **Compensation.**—The City Forester shall receive such compensation for his services as is now or may hereafter be fixed by ordinance.

Sec. 641. **Horse Hire.**—He shall keep and maintain for his use a horse and vehicle and for its use and hire he shall be allowed the further sum of fifteen dollars (\$15.00) per month, the same to be paid out of the Board of Public Works Department in the same manner and at the same time as other employes are paid.

Sec. 642. **Duties.**—It shall be the duty of such City Forester to see that all laws and ordinances for the planting and protection of trees shall be strictly enforced; to direct the time and method of trimming all trees in the streets of the City, except in the boulevards and other grounds under the control of the Board of Park Commissioners; to advise the Common Council and property owners regarding the kinds of trees, and method of planting deemed desirable on particular streets.

To report to the Board of Public Works whenever trees have died, which have been planted under the provisions of the City ordinances, in order that the Board may cause such trees to be replaced, and to perform such other duties relating to said office as may be from time to time prescribed by the Board of Public Works.

Sec. 643. Planting Trees—Permits—Specifications.—It shall be unlawful for any contractor, or other person, to excavate an opening, a hole or pit, in any streets of this City for the purpose of planting or setting a tree therein without a written permit from the City Forester so to do.

Whenever any property owner desires to plant or set trees along the sidewalk space on any street, avenue or highway in this City (the said planting and setting to conform to the general specifications for planting and setting trees, approved by the Board of Public Works, and on file in their office and in the office of the City Forester), he may apply to the City Forester for a permit so to do, and the City Forester may thereupon issue to him a permit to plant or set such trees, stating the species and kind of trees to be planted or set, and the location thereof, and upon completion of such planting or setting, in accordance with the said specifications, it shall be the duty of the said City Forester to issue to the property owner a written acceptance thereof; *provided*, however, that the City Forester shall issue no such permit to any property owner or other person for the planting or setting of trees within the limits defined by any ordinance of the Common Council providing for the planting of trees upon such street, which has become a law before the time when such property owner or other person desires to secure such permit, and under which ordinance advertisement has been made for bids for such planting. But, in all such cases, the contractor to whom the work of planting or setting of trees has been awarded by the City, under such ordinance, shall plant or set the trees the entire length as defined in the ordinance, providing he shall have a written permit from the City Forester to proceed with the work of planting or replanting in compliance with the terms of his contract.

Sec. 644. Trimming Trees—Permits.—It shall be unlawful for any person to trim any trees standing in the streets of the City, except upon the boulevards and other streets under the control of the Board of Park Commissioners, except under the direction of the City Forester, and said City Forester is hereby authorized to grant

written permits for the trimming of trees and to give such directions regarding the same as he deems proper.

Sec. 645. Branches of Trees.—That all trees, whose stems or trunks shall measure five (5) inches or more in diameter, which are kept, maintained or cultivated in any street, avenue or alley of Kansas City, Missouri, shall have branches or limbs cut or pruned close to the stem or trunk of the tree, so that all branches and boughs shall be at least ten (10) feet above the level of the sidewalk.

Sec. 646. Penalty.—Any contractor or other person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars, nor more than five hundred dollars.

ARTICLE XII.

VACATION PROCEEDINGS.

Section.

647. Vacation Fund—Costs Deposited by Whom.

Section.

**648. Treasurer to Issue Receipt.
649. Fund, How and to Whom Paid.**

Charter, Art. IX.

Sec. 647. Vacation Fund—Costs Deposited by Whom.—Whenever any person shall file a petition for the vacation of any public highway, street, avenue, alley or public place within the City he shall procure from the City Clerk a written estimate of the cost of publication and all other expenses incident to such vacation and shall, before the notice of the pendency of such petition is published by the City Clerk, deposit with the City Treasurer a sum of money equal to the amount of such estimate, which money shall be placed to the credit of a fund to be known as the "Vacation Fund" and which shall be kept and paid out as hereinafter provided.

Sec. 648. Treasurer to Issue Receipts.—Upon receiving any such money the City Treasurer shall issue triplicate receipts therefor, containing the name of the person depositing the money, the amount thereof and a description of the property sought to be vacated, one of which receipts shall be delivered to the person making the deposit, one to the City Auditor and one to the City Comptroller, and the Auditor and Comptroller shall thereupon enter the amount of such

deposit to the credit of the "Vacation Fund," and keep separate accounts of each deposit.

Sec. 649. Fund, How and to Whom Paid.—Whenever the City Clerk shall certify to the City Auditor the correctness of any bill or item of expense in any vacation proceeding, the Auditor shall draw a warrant for the amount thereof, payable to the person entitled thereto, out of the "Vacation Fund," which warrant shall be countersigned by the Comptroller and paid by the Treasurer upon presentation, and the receipted bill shall be kept on file by the Auditor. Upon presentation to the City Auditor of a certificate of the City Clerk containing a statement of the various expenses incurred in any vacation proceeding, and that all such bills and expenses have been certified by him for payment, the Auditor shall draw a warrant to the person who made the deposit in such proceeding, or to his order, for the amount of money, if any, remaining, which warrant shall be countersigned and paid in the manner provided in this section for the payment of bills.

CHAPTER 14.

RAILWAYS.

Article.

I. Steam Railroads.

Article.

II. Street Railways.

ARTICLE I.

STEAM RAILROADS.

Section.

- 650. Watchmen.
- 651. Penalty.
- 652. Duty of Persons Warned.
- 653. Crossings Requiring Watchmen.
- 654. Rate of Speed—Penalty.
- 655. Neglect of Watchmen—Penalty.
- 656. Stopping at Crossings—Penalty.
- 657. Lights at Crossings—Penalty.
- 658. Moving Trains Over Crossings Where Lights Are Required.
- 659. Headlights—Penalty.
- 660. Obstructing Streets, Alleys, Etc.
- 661. Whistling and Letting Off Steam.
- 662. Lighting Tracks and Planking Crossing.
- 663. Moving Cars on Streets Not Lighted or Planked.

Section.

- 664. Track Grade Must Conform to Street Grade.
- 665. Planking Streets and Alleys.
- 666. Using Unplanked Streets and Alleys.
- 667. Lamps as Required by Resolution.
- 668. Providing and Maintaining Lamps.
- 669. Notice to Railway Company to Provide Lamps.
- 670. Penalty.
- 671. Expense of Lamps.
- 672. Penalty.

Charter, Art. III, Sec. 1, Cls. 12, 27. Art. XVI, Sec. 4.

Sec. 650. **Watchmen.**—One or more watchmen shall be employed, at the expense of the person or corporation using the railroad tracks or operating railroads within the City, to be stationed at each of the crossings hereinafter named, whose duty it shall be, by day and by night, to warn persons about to cross the railroad tracks at any such crossings of the approach of any railroad train, locomotive, tender or car.

Sec. 651. **Penalty.**—No conductor, engineer, fireman, brakeman or other person shall move, or cause or allow to be moved, any such locomotive, tender or car, over or upon any street or ave-

nue, at the crossing of which, under the provisions of this article, a watchman is required to be stationed, without there is stationed and present a watchman at such crossing, under a penalty of not less than twenty-five dollars nor more than five hundred dollars.

Sec. 652. Duty of Persons Warned.—No person warned as hereinbefore provided, of the approach of any such locomotive, tender or car, shall cross or go upon, or attempt to cross or go upon, any such crossing or track at which a watchman is stationed, until such locomotive, tender or car shall have passed over such crossing.

Sec. 653. Crossings Requiring Watchmen.—The following are hereby designated as crossings at which watchmen shall be stationed:

1. The crossing at Santa Fe Street and Union Avenue.
2. The crossing over Mulberry Street, between Union Avenue and St. Louis Avenue.
3. The crossing at Tenth Street and Mulberry Street
4. The crossing at Hickory Street and Union Avenue.
5. The crossing over Santa Fe Street, between Ninth Street and St. Louis Avenue.
6. The crossing of the railroad tracks over First Street, between Harrison and Campbell Streets.
7. The crossing of the railroad tracks over Main Street at Commercial Alley.
8. The crossing of the railroad tracks over Lydia Avenue, at First Street.
9. The crossing of the railroad tracks at Eleventh and Santa Fe Streets.
10. The crossing at Grand Avenue, between the north line of Front Street and the south line of the right of way of the Chicago & Alton Railroad.
11. The crossing at Eighth and Santa Fe Streets.
12. The crossing at Tenth and Hickory Streets.
13. The crossing at Twentieth Street and Forest Avenue.
14. The crossing at the intersection of St. Louis Avenue and Santa Fe Street.
15. The crossing of the Kansas City Suburban and Belt Line Railway and Penn Street.

16. The crossing of Allen Avenue and Liberty Street.
17. At the crossing of Main Street and the Kansas City Suburban and Belt Line Railway.
18. The crossing of Locust Street and the tracks of the Kansas City Belt Railway Company.
19. The crossing of Harrison Street and the Kansas City Belt Railway Company.
20. The crossing of Pennsylvania Avenue and the Kansas City Belt Railway Company.
21. It is hereby made the duty of all railway companies operating trains along and across Genesee Street between Seventeenth and Nineteenth Streets, in Kansas City, Missouri, to keep a watchman at said place, for the purpose of warning the traveling public of the approach of trains.

Sec. 654. **Rate of Speed—Penalty.**—Any conductor, engineer, fireman, brakeman or other person who shall move, or cause or allow to be moved, any locomotive, tender or car over or across any public street at grade within the City limits, at a greater rate of speed than six miles per hour, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars for each and every such offense.

Sec. 655. **Neglect of Watchmen—Penalty.**—Any watchman stationed at any of the crossings mentioned in this article, who shall fail or neglect to warn any person about to cross any railroad track at such crossings, of the approach of any locomotive, tender or car, upon such track, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense.

Sec. 656. **Stopping at Crossings—Penalty.**—Every conductor, engineer, fireman, brakeman or other person in charge of any locomotive, tender, car or train of cars, run on any steam railroad track, shall stop the same or cause the same to be stopped before arriving at or crossing any other steam railroad track at grade crossings in this City, where no watchman is stationed, so that the end of such locomotive, tender, car or train of cars nearest such crossing shall come to a full stop at least seventy-five feet from such crossing; and if two locomotives, tenders or trains of cars approach any such railroad crossing near the same time, the one first giving the signal to

start, by whistling, shall move on and across first and the other locomotive, tender, car or train of cars shall not attempt to move or cross such crossing, until the first locomotive, tender, car or train of cars shall have entirely crossed the same. Any conductor, engineer, fireman, brakeman or other person in charge of such locomotive, tender, car or train of cars, who shall violate, fail, neglect or refuse to comply with any provision of this section, or shall fail, neglect or refuse to run or operate such locomotive, tender, car or train of cars, according to the requirements of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars.

Sec. 657. Lights at Crossings—Penalty.—It is hereby made the duty of every person, firm or corporation operating a steam railway track across any of the streets of Kansas City, Missouri, to maintain at such crossing good and sufficient lights, and sufficient to insure public safety in that respect.

Every person, firm or corporation failing to so provide said lights shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). And each and every day that such person, firm or corporation so fails to provide such lights shall constitute a separate offense.

Sec. 658. Moving Trains Over Crossings Where Lights are Required.—No conductor, fireman, brakeman, engineer or other person shall, from sunset to sunrise of any day, move, assist in moving or cause or allow to be moved, any locomotive, tender, car or cars, over, upon or across any street or avenue, at the crossing of which under the provisions of any ordinance of the City or resolution of the Common Council, any light or lamp is required to be kept, unless there shall at the time be lighted at such crossings lamps or lights as required by such resolution or ordinance.

Sec. 659. Headlights—Penalty.—Any conductor, engineer, fireman, brakeman or other person in charge of any locomotive, tender, car or train of cars who shall run or move, or cause or allow to be run or moved, for any purpose whatever, within the City, between sunset and sunrise, any such locomotive, tender, car or train of cars, without having at least one large lamp, headlight or lantern, conspicuously placed in front of the same, facing the direction in which the same may be moving, whether running forward or backward, shall

be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars for each and every such offense.

Sec. 660. Obstructing Streets, Alleys, Etc.—No conductor, engineer, fireman, brakeman or other person in charge of any locomotive, tender, car or train of cars shall obstruct or cause to be obstructed, any street, avenue, alley, sidewalk or other highway in this City, with any such locomotive, tender, car or train of cars, or in any manner obstruct or cause to be obstructed the free and clear passage for vehicles and pedestrians along the same, for longer than four (4) minutes; nor shall any such conductor, engineer, fireman, brakeman or other person in charge of any such locomotive, tender, car or train of cars at any time stop, or cause or allow same to be stopped in or upon any street crossing for any purpose whatever; so that the obstruction of such crossing shall be longer than four (4) minutes; nor shall any such person run, or draw, or cause to be run or drawn, over or across any such highway in this City, any train, switching or "transfer" of cars, containing more than thirty (30) cars. No yardmaster, superintendent of terminals or other officers or vice principal connected with any railroad, shall run, or manage, or cause, permit, order or direct to be run or managed, any such locomotive, tender, car, or train of cars, in such a manner as to necessitate a violation of this section. And any person mentioned in this section who shall have been arrested for violation thereof, may at the discretion of the police judge, be discharged without penalty, if it be found that such violation was necessitated by the order or command of any such yardmaster, superintendent of terminals, or other officer under whom such person may at the time have been working. *Provided*, however, that no such person shall be thus discharged unless he shall first disclose the name of such yardmaster, superintendent of terminals or officer, to the court, and shall testify in court as to such orders, when the yardmaster or superintendent of terminals who made them, shall have been arrested and be on trial therefor.

Sec. 661. Whistling and Letting Off Steam.—No engineer, fireman or other person shall blow or sound, or cause to be blown or sounded for a longer period of time than thirty seconds, any steam whistle within the City limits of the City, or let off or cause or allow to be let off, unnecessarily, any steam from any locomotive, at or within one hundred feet of any street, alley, avenue or any crossing over the same.

Sec. 662. Lighting Track and Planking Crossings.—All persons, railroad companies and corporations using, constructing or occupying any railroad track upon any street, alley, avenue or sidewalk in this City, shall keep such street, alley, avenue or sidewalk in repair, and shall keep the same well lighted from sunset to sunrise of every day; and shall, when such street, alley or avenue intersects any other street, alley or avenue in this City, construct, build and keep in constant repair, good and sufficient crossings at the intersections of such streets, alleys or avenues. Such crossings shall be made of oak plank not less than two and one-half inches thick, and such plank shall be placed between the rails of such track at such crossing and for the space of three feet outside of such rails, and shall extend the whole width of such street, alley or avenue so crossed, inclusive of the sidewalks of such street, alley or avenue, and such plank shall be so placed as to make a connected and safe crossing, from three feet outside of the rail on one side of such railroad track to three feet on the outside of the rail on the other side of the track.

Sec. 663. Moving Cars on Streets Not Lighted or Planked.
—No conductor, engineer, fireman, brakeman or other person shall move, or cause or allow to be moved, any locomotive, tender or car over or upon any street, alley or avenue at the crossing of which, under the provision of the next preceding section, a wooden crossing is required to be built, constructed and kept in constant repair, as required in said next preceding section; and no conductor, engineer, fireman, brakeman or other person shall move, or cause or allow to be moved, any locomotive, tender or car, over, along or upon any street, alley, avenue or sidewalk unless such street, alley, avenue or sidewalk is in good repair and well lighted, as required in said next preceding section.

Sec. 664. Track Grade Must Conform to Street Grade.—All railroad tracks laid upon any part of any public alley or street, shall be laid, relaid, maintained and kept to the grade of such alley or street, as may be established or re-established by ordinance. Whenever it may be ascertained that the track or tracks of any railroad company are not to the established or re-established grade of the alley or street, the City Engineer shall notify the local agent of the company owning such track, that the said track is not laid to the grade of the street or alley, and, after the expiration of twenty days from said notice, if such track has not been brought to the established grade, no engineer, conductor or fireman, in charge of any locomotive,

engine, tender, car or train of cars, shall move or cause to be moved or assist in moving any such locomotive, tender, car or train of cars over such track, until it has been made to conform to the grade of the alleys or streets where it is laid.

Sec. 665. Planking Streets and Alleys.—All steam railroad companies, owning or leasing or operating any track or tracks, along or upon any alley, avenue or street of Kansas City, shall plank said track between the rails and for the space of one and-half feet outside of the rails of said tracks with good, sound and whole white or burr oak planks two and one-half inches in thickness, thoroughly spiked with spikes six inches in length, and maintain such planking in good order.

Sec. 666. Using Unplanked Streets and Alleys.—It shall be a misdemeanor for any foreman or man in charge of tracklaying to lay down any steam railroad track on any alley, avenue or street, without planking such track as herein required; for any engineer, fireman, conductor or other man in charge of any locomotive, engine, tender, or car or train of cars, who shall move or cause or allow to be moved any engine, tender, car or train of cars over any part of any steam railroad track, upon any alley, avenue or street of Kansas City, unless said track is properly planked as required by this article.

Sec. 667. Lamps as Required by Resolution.—At every point where any railroad track or bed crosses any street or avenue there shall be erected and maintained one or more lamps of light of such kind and number as may be named and directed by resolution of the Common Council.

Sec. 668. Providing and Maintaining Lamps.—The lamps or lights provided for in the preceding section shall be erected, repaired and maintained in proper condition and lighted and kept lighted from sunset to sunrise of every twenty-four hours, by the person, company or corporation owning or operating the railroad track or bed which crosses the street or avenue at the point where such lamps or lights are directed to be placed.

Sec. 669. Notice to Railway Company to Provide Lamps.—Whenever the Common Council passes a resolution directing the erection and location of lamps or lights as in this article provided, the City Clerk shall forthwith give to the Commissioner of Street

Cleaning a copy of such resolution, whose duty it shall be to serve the same, or a copy thereof, on the person or officer, manager, superintendent or agent of the company or corporation owning or operating the railroad track or bed which crosses the street or avenue at the place named in the resolution. The Commissioner of Street Cleaning shall make a report or return in writing to the City Clerk in which he shall state the name of the person or officer on whom the resolution was served and the time of service thereof. Such report or return shall be carefully preserved by the City Clerk.

Sec. 670. Penalty.—If the lamp or lights directed to be erected and maintained by the resolution served as provided in the preceding section, be not erected and regularly lighted at the expiration of fifteen days from the date of the service of such resolution, then the person upon whom such notice was served and every manager, superintendent or agent of the company or corporation owning or operating the railroad track or bed at the place named in the resolution shall be deemed guilty of a misdemeanor, and on conviction therefor, shall be fined not less than fifty nor more than three hundred dollars for each and every day the lamp or lights named in such resolution are not erected and regularly lighted as herein provided.

Sec. 671. Expense of Lamps.—If provision be made by resolution, as herein provided, for the erection and maintenance of lamps or lights at any place where more than one railroad track or bed crosses the street or avenue, then the lamps or lights, as directed by the Common Council to be erected, shall be erected, maintained and lighted at the equal expense and cost of the persons, companies or corporations owning or operating such tracks or beds.

Sec. 672. Penalty.—Any one who shall violate, fail, neglect or refuse to comply with any provision, regulation or requirement of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than five hundred dollars, where no other penalty is specially provided.

ARTICLE II.

STREET RAILWAYS.

| Section. | Section. |
|--|--|
| 673. Watchmen. | 688. Space Between Curves. |
| 674. Where Watchmen Are Required. | 689. Fenders. |
| 675. Tracks Must Conform to Established Grade. | 690. Penalty. |
| 676. Speed of Street Cars. | 691. Proceedings to Compel Repairs. |
| 677. Use of Tracks in Common. | 692. Putting Saltpeter or Salt on Track. |
| 678. Right of Way. | 693. Street Car License. |
| 679. Putting Obstructions on Tracks. | 694. Bond for License Charged. |
| 680. Stopping on Crossings. | 695. Record of Cars Run and Amount of License. |
| 681. Moving Cars—Women and Children. | 696. Running Unlicensed Cars—Penalty. |
| 682. Headlights. | 697. Stopping for Fire Department. |
| 683. Removing Track for Street Repairs. | 698. Changing Motive Power. |
| 684. Paving of Street Car Tracks. | 699. Certifying Petitions. |
| 685. Repairs of Tracks. | 700. Owl Cars or Night Trains. |
| 686. Constructing Track on Paved Street. | 701. Penalty. |
| 687. Elevation of Slot Rails. | 702. General Penalty. |

Charter, Art. XVI, Secs. 4, 7. Art. III, Sec. 1, Cls. 4, 28.

Sec. 673. Watchmen.—One or more watchmen shall be employed, at the expense of the corporation, firm or person using street railway tracks, or operating any street railway or other railway within this City, to be stationed at each of the crossings herein-after named, whose duty it shall be by day and by night to warn all persons about to cross the street railway tracks at such crossing of the approach of any street car or cars. No conductor, motorman or person in charge of any car or train of cars shall move, or allow to be moved, or assist in moving any car or train of cars over or upon any street or avenue at the crossing of which, under the provisions of this article, a watchman is required to be stationed, unless there is stationed and present a watchman at such crossing.

Sec. 674. Where Watchmen are Required.—At least one such watchman shall be stationed at the following places in this City: At the crossing of Eighteenth and Prospect Avenue; Nineteenth and Brooklyn Avenue; Eighteenth and Brooklyn Avenue; Fifteenth and Brooklyn Avenue; Twelfth and Brooklyn Avenue; Nineteenth and Troost Avenue; Eighteenth and Troost Avenue; Fifteenth and Troost Avenue; Twelfth and Troost Avenue; Tenth and Troost Avenue; Eighth and Troost Avenue; Nineteenth and Vine Streets; Eighteenth

and Vine Streets; Nineteenth and Grand Avenue; Eighteenth and Grand Avenue; Fifteenth and Grand Avenue; Twelfth and Walnut Streets; Tenth and Walnut Streets; Ninth and Walnut Streets; Fifth and Walnut Streets; Second and Grand Avenue; Second and Walnut Streets; Thirteenth and Walnut Streets; Twelfth and Main Streets; Ninth and Main Streets; Ninth and Delaware Streets; Fifth and Main Streets; Fifth and Delaware Streets; Eighth and Woodland Avenue; Ninth and State Line; Nineteenth and Holmes Streets; Eighteenth and Holmes Streets; Fifteenth and Holmes Streets; also at the crossing of Holmes Street and Kansas City Belt Railway; at the crossing of Summit Street and the Kansas City Belt Railway, and at the crossing of Fifteenth Street and the Kansas City Belt Line Railway.

Sec. 675. Tracks Must Conform to Established Grade.—The tracks of all street railroads in Kansas City shall be laid and kept on a level with the established or re-established grade of the streets, avenues, alleys and highways over and along which they may be constructed and operated, and shall be so laid as not to prevent the flow of water from, along or across any street, avenue, alley or highway, or in any way to obstruct the crossings on or over any street, avenue, alley or highway. The center line of such track or tracks shall, as near as may be, coincide with the center line of the street, avenue, alley or highway over or along which the same may pass, unless otherwise directed by the City Engineer. In the event of any difference between the City Engineer and the company, corporation or individual as to the proper place for the location of such railroads, the same shall be determined by resolution of the Common Council. No conductor, gripman, motorman or other person shall move or assist in moving a street railway car or train of cars, or cause the same to be moved along or on any track which does not conform to the established grade of the street, avenue or alley on which said track may be laid; *provided*, in case of the change of the grade of any such street, avenue or alley, sufficient time shall be allowed within which, by expeditious effort, to make the requisite change of the grade of the said railway track.

Sec. 676. Speed of Street Cars.—No street car shall in any case, be run or operated upon, over or across any street in this City at a greater rate of speed than twelve miles per hour.

Sec. 677. Use of Tracks in Common.—The city shall have

the right to grant the privilege to any company, corporation or individual to construct railway tracks across the tracks of any other company, corporation or individual, and when a franchise is granted to construct and operate a street railway along any street where a street railway is in operation, said franchise may provide for the use of the tracks already laid by the grantee of such franchise, in common with the owner, proprietor or lessee of said tracks, upon such terms and for such compensation as may be agreed upon between said grantee and such owner, proprietor or lessee, and in case they cannot agree thereupon, such compensation and terms as may be determined by any court of competent jurisdiction.

Sec. 678. Right of Way.—The cars of all street railroads shall at all times be entitled to the track; and the driver of every vehicle upon the track, or by the side thereof, shall turn such vehicle out when any car approaches, so as to leave the track unobstructed for the passage of such street car; *provided*, that steam fire engines and all conveyances of the fire department going to and at fires, shall have the right of way over all street railroad tracks.

Sec. 679. Putting Obstructions on Tracks.—No person shall place or cause to be placed any stone, stick, lumber or other material upon or so near to any street railroad track as to hinder or obstruct the free and safe passage of the cars thereon.

Sec. 680. Stopping on Crossings.—No car shall be stopped on any street crossing. When the person in charge of any car or cars is required to stop at the intersection of streets, to leave or receive passengers, he shall stop such car so as to leave the rear platform of the car or cars slightly over the crossing.

Sec. 681. Moving Cars—Women and Children.—No person in charge of any street car shall allow any woman, or child under ten years of age, to enter or leave the same while in motion.

Sec. 682. Headlights.—No car or train of cars shall be run between sunset and sunrise without a headlight on the front end thereof; and such light shall be so placed that it can be readily seen for a distance of at least three blocks.

Sec. 683. Removing Track for Street Repairs.—In case the grading or change of grade, paving or repairing of any street,

avenue, alley or other highway, the person, company or corporation operating the railroad upon the same shall, when required by the City Engineer, remove the rails and tracks in order that such work may be done, and shall relay such rails and track, on the completion of such improvement, without any expense to the City.

Sec. 684. Paving of Street Car Tracks.—No person, company or corporation, nor any person, as president, superintendent or other officer or agent of any street railway company or corporation, shall keep, use or maintain any street railway track, or part of a track, upon any street or part of a street, which said street or part of street is now or hereafter may be paved, unless the space between the tracks and between the rails of such track and also the space adjoining and on the outside of such tracks for the distance of eighteen inches in width, shall be paved in such manner as is or may be provided by ordinance.

Sec. 685. Repairs of Track.—All persons, companies or corporations owning or maintaining and all persons running or operating, as president, superintendent or other officer or agent of any such company or corporation, any street railway in Kansas City, shall keep the track of such railway, and every part thereof, including the pavement or space required to be paved as aforesaid, in good repair, so that the same shall in no wise obstruct or hinder travel upon the street, or any part thereof, on which such track may be located.

Sec. 686. Constructing Track on Paved Street.—In case any railroad track shall be laid, constructed or reconstructed on, along or across any street already paved, it shall be the duty of the person, company or corporation owning or operating such railroad to pave the track and eighteen inches outside thereof, as required by this article, as fast as such track shall be laid, constructed or reconstructed, so as to have said space paved immediately upon the completion of such laying, construction and reconstruction.

Sec. 687. Elevation of Slot Rails.—The inner edges of the slot rails of cable railways now constructed or that hereafter may be constructed in Kansas City may be laid higher than the surface of the rails upon which the car wheels run, but the difference in height shall not exceed one and one-half inches, and the paving shall be so laid as to make a uniform slope from the upper surface of the inner edges of the slot rails downwards to the upper surface of the rails upon which the car wheels run.

Sec. 688. **Spaces Between Curves.**—Any person or corporation constructing a cable or electric railway, under authority of Kansas City, may so place the tracks of the curves that the space between the gauge lines of such tracks will admit of the safe operation of its cars thereon, such space not to exceed eight feet.

Sec. 689. **Fenders.**—There shall be placed and maintained on every car used on every street railroad, whose motive power is by endless cable or electricity, a fender, which shall be placed not more than two inches from the ground or surface of the street, and shall entirely surround the running gear of the car. Such fender shall be pointed at each end of the car; shall extend as far out as the platform, and shall be so constructed and placed as to afford the best possible protection to persons with whom such car might come in contact. In lieu of the fender above described for the front of the car, any street railway company may use what is known as a drop fender.

Sec. 690. **Penalty.**—Every president, manager, treasurer, secretary, superintendent or employe of any street railways which are run, operated and used, and who shall assist in running, operating and using, or permit or direct to be used or operated, any car on any street railway, whose motive power is by endless cable or electricity, without such car having on it the fenders as herein required, shall be deemed guilty of a misdemeanor, and on conviction, be fined not less than ten nor more than five hundred dollars.

Sec. 691. **Proceedings to Compel Repairs.**—When any person shall notify the City Engineer of any violation, failure, neglect or refusal to keep the track, and every part thereof, of any railway in good repair, as required by this article, stating the location where such track, rails or space are not in conformity to the provisions of the same, it shall be the duty of the City Engineer to forthwith inspect such place and give written notice to the superintendent, managing officer or other person in charge of such street railroad, to repair such place and make it conform to the provisions and requirements of this article within forty-eight hours after the service of such notice; if the same be not complied with within said time, it shall be the duty of such City Engineer to forthwith make complaint of such delinquency to the City Counsellor for immediate prosecution, giving said Counsellor a list of witnesses, together with the nature of the offense; *provided*, that this section shall not be so con-

strued as to prevent any person from making complaint for any such offense directly to said City Counsellor.

Sec. 692. Putting Saltpetre or Salt on Track.—No person shall throw, place or scatter any salt or saltpetre upon any street railroad track in this City, under penalty of not less than ten nor more than five hundred dollars.

Sec. 693. Street Car License.—No street car shall be used for the carrying of passengers inside the city on any street railway or horse railroad, wholly or partly within the city, without a license for the car and such use thereof, the charge to be paid for each car annually shall be as hereinafter provided. Any person, persons or corporations desiring a license to be granted and issued for any street railroad car shall, after the car has been numbered as directed by the City Comptroller, or to his satisfaction, with a large figure or figures painted or securely fastened on each side of the car, pay to the City Treasurer in part payment of the charge for the license the sum of twenty dollars, and the Treasurer shall give receipt evidencing such part payment, and showing the number of the car to be licensed. The receipt shall be delivered to the City Auditor, who shall at once grant and issue the license which shall show the number of the car covered by the license, and the date of the expiration of the license. Each license shall be signed by the City Auditor and countersigned by the City Comptroller, and shall not be valid until so signed and countersigned, and shall expire on January 4th, which date shall be the end of the year or part of the year, for which the same shall be issued. There shall be a separate license for each car. The Comptroller shall prescribe the form of license. To enable the Inspector of Licenses, or other proper officer, to perform his duty without undue trouble to him, and the drivers or others handling or using any car to know whether the same has been properly licensed, every license shall at all times, while in force, be kept hanging or fastened up conspicuously inside the car it covers. In case of loss or destruction of any license before it expires, a duplicate thereof, so marked, shall, under the direction of the City Comptroller, be issued and used in place of the original. The City Auditor shall keep a proper register of all such licenses.

Sec. 694. Bond for License Charged.—Before any license for any street railroad car shall be issued to any person or persons or corporation, as provided in the foregoing section of this ordinance, such person or persons or corporation shall execute to Kansas City a bond in the penal sum of six thousand dollars, with two or more good and sufficient sureties, to be approved by the City Comptroller, conditioned that the obligor will, on the fourth day of January, pay to the City Treasurer of said city the balance that may then be due, for any and all street car licenses issued or to be issued to such person or corporation during the year ending on the said 4th of January following, such balance to be determined as in the next succeeding section of this ordinance provided, and such bond may be in the following form:

Know all men by these presents that we.....
 as principals,
 and and
 as sureties,
 are held and firmly bound unto the City of Kansas City, in the penal sum of.....
 for the payment on the fourth day of January next, to the Treasurer of Kansas City of all balance of street car license and tax which may then be due from said.....
to said City for the year ending on the said fourth day of January next, upon any and all license issued by said city to said to use any street railroad cars for the carrying of passengers inside the City of Kansas City; and in default of such payment, to pay all damages and costs which may be adjudged against them by law.

Given under our hands this.....day of.....19....

.....

Approved this.....day of.....19....

.....

City Comptroller.

Sec. 695. Record of Cars Run and Amount of License.—Every such person or corporation shall keep a correct and faithful account of the kind and respective numbers of the cars in use for carrying passengers at any time on each day of the year ending January 4th as aforesaid, and shall each week file with the

City Comptroller a like correct and faithful statement of the kind and respective numbers of the cars so used at any time on each days of the previous week, which statement to be filed on every Monday of each year. Should such person or corporation fail or neglect to so file such statement for any day or days, such person or corporation shall for each of such days be charged and held to have run or used on each of such days twice the largest number of cars run or used by such person or corporation on any day of the year for which such license is taken out, and on the 4th day of January shall file with the said City Comptroller a correct and faithful sworn statement of the whole number of cars so used within the previous year, which whole number of cars it shall be the duty of the City Comptroller to divide by the whole number of days contained in the previous year, and the quotient thus obtained shall be held and construed to represent the average number of cars daily used by such person or corporation for the carrying of passengers for such previous year, and such person or corporation in addition to the twenty dollars paid as part payment for the license on each car at the time it is licensed as aforesaid, shall also pay to said city such additional amount therefor as will make the aggregate sum paid for the year for such licenses on his or its cars equal to the sum of thirty dollars per car for the average number of cars daily used during said year as said average number may be determined in the manner above provided.

Sec. 696. Running Unlicensed Cars—Penalty.—Every person who shall in any capacity, either as owner or lessee of a street railroad car, or as agent, officer, driver, gripman, motorman or conductor or employe of the owner or lessee of a street railroad car, or otherwise used or caused to be used any street railroad car for the carrying of passengers within Kansas City on any street railway or horse railroad, wholly or partly inside of the city, without the car being licensed as aforesaid, or without a license therefor being, during such use, kept hanging or posted up in the car as aforesaid, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five (\$5) dollars nor more than one hundred (\$100) dollars; such use of an unlicensed car to be deemed a separate offense for every load of one or more passengers carried.

Sec. 697. Stopping for Fire Department.—When any fire engine, hose cart, truck or other fire apparatus, going to a fire or answering an alarm of fire, shall approach close to any car upon any street railroad track in Kansas City, it shall be the duty of the person in charge of such car, to cause such car to come to a full stop, and so remain until such fire engine, hose cart, truck or other fire apparatus has fully passed by such car or has come to a full stop.

Sec. 698. Changing Motive Power.—The motive power of any street railway shall not be changed without first obtaining the consent of the property owners owning the majority of front feet of real estate fronting on the street or streets where said railway is constructed and operated.

Sec. 699. Certifying Petitions.—The City Engineer shall certify to the petition having a majority of front feet on any street where said change of motive power is to be made before any right shall be granted for any such change of motive power. He shall also certify to and canvass petitions of property owners giving their consent to the construction of any railway upon any street or highway in the city.

Sec. 700. Owl Cars or Night Trains.—That all street railway companies operating under franchises from Kansas City, Missouri, be and are hereby directed, and it shall be their duty to run cars commonly known as owl cars, on all street railway lines except on Sixth street from Broadway to Delaware, at intervals of fifteen minutes from twelve o'clock midnight to one o'clock a. m. and shall also run said cars, except cable cars, over its lines in the night time, at the hours hereinafter specified. Said owl cars or night trains shall leave downtown terminals, on their respective lines after one o'clock a. m. on the even hours, that is, at one, two, three, four and five o'clock a. m. All street railway companies operating by electricity hereafter shall conform with the provisions of this ordinance and all cable companies, as fast as they are converted into electricity or electric lines, shall operate as hereinbefore mentioned, to-wit: At intervals of fifteen minutes apart from twelve o'clock midnight to one o'clock a. m. and at intervals of one hour after that until five o'clock a. m. All fares on owl cars shall be the same as on day

cars and the transfer privileges shall be the same as during the day.

Sec. 701. Penalty.—Every company or corporation and every president, manager, treasurer, secretary or official of any street railway operating any of the lines hereinbefore specified, and which are or shall be run, operated and used, and who shall assist in running, operating and using said lines, or shall permit or direct said lines to be used or operated without such lines being provided with and using the owl cars hereinbefore directed to be used as herein required, shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than ten (\$10) dollars nor more than five hundred (\$500) dollars, and each night which shall elapse after the taking effect of this ordinance, without said owl cars being in use as herein provided, on said lines, shall be and constitute a separate offense hereunder.

Sec. 702. General Penalty.—Any person violating, failing, neglecting or refusing to comply with any provision, regulation or requirement of this article shall be deemed guilty of a misdemeanor and upon conviction shall, where no other penalty is provided, be fined not less than five dollars nor more than five hundred dollars.

CHAPTER 15.

SANITARY LAWS.

Article.

- I. Hospital and Health Board.
- II. Marriages, Births, Deaths and Funerals.
- III. Contagious Diseases.
- IV. Tenement and Lodging Houses.

Article.

- V. Food and Drink.
- VI. City Scavenger.
- VII. Garbage.
- VIII. Vaults and Cesspools.
- IX. Miscellaneous Provisions.

ARTICLE I.

HOSPITAL AND HEALTH BOARD.

Section.

- 703. Closing of Streets and Alleys.
- 704. Destroying Infected Articles.
- 705. Trade or Business Detrimental to Public Health.
- 706. Proceedings.
- 707. Penalty.
- 708. Sanitary Supervision of Streets, Schools, Etc.

Section.

- 709. Changing Plans of School Houses, Public Buildings.
- 710. Sidewalks, Gutters and Alleys.
- 711. Cleaning Alleys and Premises.
- 712. Duties of Police.
- 713. Penalty.

Charter, Art. XIV.

Sec. 703. Closing of Streets and Alleys.—The Hospital and Health Board shall cause any avenue, street, alley or other passage way whatever to be fenced up or otherwise enclosed if it shall deem the public safety requires it, and shall adopt all suitable measures for preventing any person from going to or coming from any part of the city so enclosed.

Sec. 704. Destroying Infected Articles.—The board shall direct any bedding, clothing or any other article or thing which in its opinion, may be dangerous to the public health, to be destroyed in such manner as it shall direct, in which event, said board shall order the city scavenger to remove or destroy such article or things; and any person who shall in any manner resist,

hinder or obstruct any officer or person in the execution of such order, shall be deemed guilty of a misdemeanor.

Sec. 705. Trade or Business Detrimental to Public Health.
—On complaint being made to it or whenever it shall deem any business, trade or profession carried on or engaged in by any person or corporation in the city detrimental to the public health, said board shall notify such person or corporation to show cause before said board, at a time and place to be specified in such notice, why the same should not be discontinued or removed. Said notice shall be served by a policeman or other person at least five days before the time specified therein, (except in case of an epidemic or pestilence when said board may direct a shorter time, not less than twenty-four hours), by reading the same to such person or to an officer of any corporation or by leaving a copy of the same at the usual place of business or abode of the person or corporation named therein, with some person over the age of fifteen years. All such notices shall, as near as may be, conform to that of an ordinary writ of summons issued by a justice of the peace in civil actions and the return of service thereof shall be signed and sworn to by the person or officer making the same.

Sec. 706. Proceedings.—Upon the appearance before said board by such party or corporation at the time and place specified in such notice, cause may be shown by such party or corporation either in person or by attorney why said business, trade or profession should not be discontinued or removed; and such hearing may, for good cause shown, be continued from day to day; and if in the opinion of said board no good and sufficient reason or cause be shown why the same should not be discontinued or removed, said board shall order the parties to remove or discontinue the same within such time as such board shall deem reasonable. If such party or corporation being summoned as aforesaid fail, neglect or refuse to attend such hearing, then said board shall inquire into such matter and shall make such order as it shall deem just and proper. If upon such hearing or examination; good and sufficient cause be shown why such order of removal or discontinuance should not be made, then said board shall dismiss such case.

Sec. 707. Penalty.—Any person or managing officer of such corporation failing, refusing or neglecting to obey or comply with such order of removal or discontinuance within such time as said board shall require, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars; and such person or managing officer of such corporation shall be subject to a like fine for each and every day such business, trade or profession shall be continued or carried on by him after the expiration of the time specified in such order for the removal or discontinuance thereof.

Sec. 708. Sanitary Supervision of Streets, Schools, Etc.—The board shall have and exercise a sanitary supervision over all streets, sidewalks, alleys and premises, both public and private, all public and private market places, public and private schools, school houses, places of amusement or other places of public resort within this city, and shall, whenever necessary for the public health or the health of the citizens in any locality, have such streets, sidewalks, alleys or any premises, market places, school houses, places of amusement or other places of public resort, cleaned as hereinafter provided, or report the condition thereof to the Commissioner of Street Cleaning, whose duty it shall be under the direction of said board, to thoroughly clean the same.

Sec. 709. Changing Plans of School Houses, Public Buildings.—Whenever the arrangement of any school house, place of amusement or other places of public resort, shall be such as in the opinion of said board is calculated to endanger the health or personal safety of those attending such place, said board shall immediately give notice to the owner, occupant, manager or person in charge thereof to alter or change the same in accordance with the direction of such board within such time as said board shall specify. If such owner, occupant, manager or person in charge thereof fail, neglect or refuse within such time to make such alterations or changes as ordered by said board, he shall be deemed guilty of a misdemeanor; and said board shall immediately report such delinquent to the City Counsellor for prosecution before the municipal court. Said board shall cause such damages or alterations to be forthwith made and shall re-

port the cost thereof to said court, who shall enter the same as a part of the fine against such person.

Sec. 710. Sidewalks, Gutters and Alleys.—Every owner, occupant, agent or person in charge of any house, building or other tenement or of any vacant lot, shall keep the sidewalk and gutter in front of or adjoining the same clean, and shall also keep all private alleys in the rear of or adjoining such premises, clean to the center of such alley.

Sec. 711. Cleaning Alleys and Premises.—When the board shall deem it necessary to secure the general health, it shall by resolution, direct the Health Commissioner to notify the owners, agents, occupants or persons in charge of any house, building or other tenement or of any lot, to clean or have cleaned any public alley in the rear of or adjoining such premises to the center of such alley. Any person failing to comply with such requirements for the space of three days after said notice has been given, shall be deemed guilty of a misdemeanor.

Sec. 712. Duties of Police.—It shall be the duty of the police in their respective districts to serve all procepts and notices of said board signed by the secretary thereof; to execute all orders of said board directed to them, and to make report or return thereof to said board; to attend to the abatement and removal of all nuisances; to examine closely the condition of all streets, sidewalks, lanes, alleys, avenues, market places, public squares, public places of amusement and all other places of public resort in the city, and report the condition thereof to said board; to notify any owner, occupant or person in charge of any lot, house, building or other premises of the existence of any nuisance in or upon the same; to order the abatement or removal thereof, and if the same be not abated or removed forthwith to arrest such person and take him before the municipal court for immediate prosecution; to visit, at least once a week and oftener when required by said board, every part of their respective districts, and to arrest any person found violating any ordinance relating to the sanitary condition of the city; to watch for and arrest all persons throwing or permitting to be thrown from their premises into any street, sidewalk, alley, avenue, gutter, highway, market place or other public place any filth, excrement

or other matter or thing prohibited by ordinance, and in other respects to exercise the utmost diligence in enforcing the ordinances in relation to the sanitary condition of the city.

Sec. 713. Penalty.—Any person violating or failing, neglecting or refusing to comply with any provision, regulation or requirement of this article, shall be deemed guilty of a misdemeanor.

ARTICLE II.

MARRIAGES, BIRTHS, DEATHS AND FUNERALS.

Section.

- 714. Records of Marriages, Births and Deaths.
- 715. Report of Marriages.
- 716. Report of Births.
- 717. Report of Deaths.
- 718. Certificates of Births and Deaths.
- 719. Registry of Medical Certificates.
- 720. Burial Permits.

Section.

- 721. Permits for Persons Dying Elsewhere.
- 722. Duty of Undertakers and Embalmers—Must Register.
- 723. Immediate Burial—Penalty.
- 724. Paupers—Decent Burial.
- 725. General Penalty.

Charter, Art. XIV, Sec. 1, Cl. 1.

Sec. 714. Record of Marriages, Births and Deaths.—The Hospital and Health Board shall keep a record of all marriages, births and deaths in the city.

Sec. 715. Report of Marriages.—Every person authorized by law to solemnize marriages shall immediately report to said board every marriage solemnized by him within the city

Sec. 716. Report of Births.—Every physician and midwife shall report within ten days to said board, in accordance with blanks to be furnished by said board, every child born within this city; and in case no physician or midwife attended the birth of said child, then the father or mother shall make such report. The report of every birth shall state its date and place of occurrence, the full christian and surname, if named; and the color and sex of the child, whether living or stillborn, and the full christian and surname, color, occupation, residence and birthplace of parents. The board shall keep a permanent official record of all births containing the facts above mentioned. If at the time said physician or midwife shall make such report the child so born shall

not have been named, then the father or mother shall report the name within thirty (30) days after the date of the birth.

Sec. 717. Report of Deaths.—The coroner of Jackson county, and every physician shall, when a patient dies under his care within this city, immediately make out and deliver to the board a certificate, stating the name, age, sex, color, nativity and place of death, together with the name of the disease of which said person died.

Sec 718. Certificates of Births and Deaths.—The Board shall furnish to all persons desiring the same a certified copy of the official record of any birth or death from the records of the said board free of charge.

Sec. 719. Registry of Medical Certificates.—Every person who shall engage in the practice of medicine, surgery or midwifery in Kansas City, Missouri, shall file a copy of his or her certificate from the State Board of Health, in the office of the Hospital and Health Board of this city, and thereupon the board shall cause to be entered the name and residence of such person, the date of filing of such certificate and the date of his or her certificate in a book to be kept by the board for that purpose, and shall require the person filing such copy to subscribe his or her name in said book; provided, that this section shall not apply to any person now authorized by the law of said state to practice medicine or surgery without obtaining a certificate from State Board of Health.

Sec. 720. Burial Permits.—No person shall carry the body of any deceased person to any cemetery or burying grounds within the limits of Kansas City, nor to or from any place in Kansas City for burial or dissection; nor shall any sexton or other person in charge of any cemetery or burying ground receive the body of any deceased person unless said body in each case be accompanied by a burial permit, properly issued by the board. No overseer, sexton or other person having control of a graveyard shall permit any person to be interred in said graveyard without a permit issued by the board, and no person shall remove or assist in removing or conveying the body of any deceased person, whether such person shall have died in this city or

shall have been brought to this city after death from without the limits of this city, without first having obtained from the board a permit so to do.

Sec. 721. Permits for Persons Dying Elsewhere.—It shall not be lawful for the board to issue a permit to bury the body of any person that died elsewhere and has been brought within the city limits, except upon the certificate of a physician given at the place of his death, or of the Board of Health of said place, and if no such certificate accompany the body, it shall be the duty of the board to refer the case to the Coroner of Jackson county, Missouri, to pass on the case and make out and furnish the necessary certificate.

Sec. 722. Duty of Undertakers and Embalmers—Must Register.—Every undertaker or licensed embalmer who shall take charge of the body of a deceased person shall make out and deliver to the board a certificate setting forth the name, age, sex, color, date of birth, place and date of death, occupation of the deceased person and such other information as in its discretion the board shall find necessary or desirable. The board shall keep blank certificates on file so that the same can be procured on application by all undertakers and licensed embalmers. Upon receipt of said undertakers certificate, signed by a regular licensed embalmer or registered undertaker the board shall issue a burial permit. It shall also be the duty of the undertaker or licensed embalmer who takes charge of such body to mail or deliver to the physician attending the deceased during his last illness a similar blank certificate for such physician's use in certifying the death of said deceased person.

Every embalmer or undertaker licensed by the city shall have his state and city license registered with the board and the board shall keep a book in its office for such purpose.

Sec. 723. Immediate Burials—Penalty.—Whenever the delay of the interment of the body of any deceased person in the limits of Kansas City, Missouri, may in the opinion of the Health Commissioner, be injurious to the public health or endanger the lives of the citizens of said city, it shall be the duty of the Health Commissioner to issue an order directing that such body shall be interred forthwith. Said order shall be directed to the relatives,

friends or person or persons having charge of the body of said deceased person. If the relatives, friends, person or persons as aforesaid, shall fail or refuse to obey the said order, then, in that case, the Health Commissioner shall have the power to secure said body and it shall be his duty to cause the body to be immediately interred in the public cemetery. Any person or persons interfering with or resisting the Health Commissioner or any person acting under his directions while engaged in the discharge of such order shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars.

Sec. 724. **Paupers—Decent Burial.**—All bodies of paupers which may be claimed in writing by relatives for burial, or who may request that said bodies be buried, shall be given a decent burial by the city under the direction and supervision of the Hospital and Health Department; and no bodies of dead paupers unclaimed by relatives shall be turned over to the Anatomical Society pursuant to the statutes of the state, until due effort has been made by the city authorities to find relatives of the deceased, said bodies in all cases to be kept for at least ten days. For the purpose of preserving the remains during the time that the inquiries are being made for relatives to claim them, said remains shall be kept in a suitable room to be provided at the General Hospital for temporary use, until a morgue or other permanent place shall have been built. The expense of burying such paupers as are claimed as aforesaid shall be paid out of the revenue of the Hospital and Health Department.

Sec. 725. **General Penalty.**—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction, where no other penalty is specially provided, shall be fined not less than ten dollars nor more than fifty dollars for each and every offense.

ARTICLE III.

CONTAGIOUS DISEASES.

Section.

- 726. Supervision of Schools.
- 727. Removing Persons to Hospital.
- 728. Same.
- 729. Quarantine and Fumigation.
- 730. Infected Furniture, Bedding, Etc.
- 731. Infected Dwelling—Conveying Infected Persons.
- 732. Duty of Hotel and Boarding House Keepers—Penalty.
- 733. Secreting Persons Having Infectious Diseases—Those Treating Same Must Make Report.
- 734. Register of Persons Suffering From Tuberculosis.

Section.

- 735. Tuberculosis—Duty of Health Commissioner.
- 736. Tuberculosis—Vacated Premises—Duty of Health Commissioner.
- 737. Pneumonia—Report by Physician.
- 738. Pneumonia—Board Shall Keep Record of.
- 739. Penalty.
- 740. Placards—Penalty.
- 741. Public Funerals.
- 742. Vaccination.
- 743. Vaccination—School Children.
- 744. Penalty.

Charter, Art. III, Sec. 1, Cl. 16. Art. XIV, Sec. 1.

Sec. 726. Supervision of Schools.—The Hospital and Health Board shall have and exercise such control and supervision over public and private schools within the city, and over all teachers, pupils and employes thereof, as may be necessary to prevent the introduction or spread of contagious or infectious diseases among the pupils thereof; and every person having knowledge of the fact shall at once report to said board, any family or member thereof afflicted with scarlet fever, measles, dyptheria, smallpox, cholera, yellow fever or any disease of a pestilential or epidemic nature, and said board shall cause all children of such family to be forthwith removed from such schools, until, in the opinion of the Health Commissioner said disease is thoroughly eradicated.

Sec. 727. Removing Persons to Hospital.—Whenever the Health Commissioner shall become apprised or informed that any person or persons residing in any hotel, boarding house or tenement house, within the limits of Kansas City, are suffering from any malignant, infectious or contagious disease, which in his opinion or in the opinion of the board may endanger the lives of the citizens, it shall be his duty to make or cause to be made an examination of the said person or persons and the disease they are suffering from or afflicted with; and from and after such examination, if he shall deem the same necessary, he shall cause said person or persons to be removed from the said hotel, boarding house or tenement house to the hospital provided by the city for the treatment of all such diseases.

Sec. 728. **Same.**—Whenever the Health Commissioner shall become apprised or informed that any person or persons residing in any private residence, house or dwelling within the limits of Kansas City, are suffering from any malignant, infectious or contagious disease which, in his opinion, or of any medical officer of the Hospital and Health Department, may endanger the lives of the citizens, and which, from the surroundings of the premises, the size of the house and the number of persons residing therein, would make it impossible to isolate said person or persons so afflicted from all connection or contact with other persons residing in the same house (except the nurses), it shall be his duty to make or cause to be made an examination of the premises and surroundings, and also an examination by a medical officer of the Health Department of the said person or persons, and the disease they are suffering from or are afflicted with, and from and after such an examination of the premises, and the person or persons, if he shall deem the same necessary, he shall cause said person or persons to be removed from said private residence, house or dwelling, to the hospital provided by the city for the treatment of all such diseases; *provided*, that the Health Commissioner shall permit one member of the family of the sick person to accompany the sick person to the hospital, there to remain as a nurse until such sick person is discharged from the hospital.

Sec. 729. **Quarantine and Fumigation.**—Whenever any residence, or portion of the city to the extent of one residence, or one or more blocks or squares of ground shall, in the opinion of the Health Commissioner, be infected with any malignant or infectious or contagious disease, he shall have the power, by and with the approval of the board, to cause the said residence, block or blocks or squares of ground to be vacated by the residents or inhabitants thereof for the purpose of disinfecting or fumigating the same; or, if this is not deemed expedient or judicious by the Health Commissioner, he shall have the power and authority to close up the street or streets in front of and surrounding the said residence, block or blocks, or squares of ground, and to prohibit the residents and inhabitants of the said residence, block or blocks or squares of ground, from passing in or out, to or from said premises, except under such rules and regulations as may be prescribed by the Health Commissioner and approved by the

board, and to continue and remain so until the Health Commissioner shall order the restrictions removed.

Sec. 730. **Infected Furniture, Bedding, Etc.**—The Board may prohibit the sale of any bedding, furniture, rags, carpets or other household property in or from any infected house, or the washing of any clothing or other articles elsewhere than in the infected dwelling; and may control the washing, fumigation or destruction of infected clothes, bedding or other infected property.

Sec. 731. **Infected Dwelling—Conveying Infected Persons.**—The making or washing of any clothing in any infected dwelling other than for the infected person, or the conveyance of a diseased smallpox person in any public hack or carriage by any person or persons, shall be held to be a misdemeanor.

Sec. 732. **Duty of Hotel and Boarding House Keepers, Etc.**—**Penalty.**—Keepers of all hotels and boarding houses, and the agents, owners and tenants of all tenement houses, or private residences, or dwelling houses, having any person or persons in their hotels, boarding houses, tenement houses, or private residence, or dwelling houses, suffering from or afflicted with any malignant, infectious or contagious disease, after they shall become acquainted with the fact, or apprised of the same, shall immediately notify the Health Commissioner, stating the name of the person or persons so afflicted, their age and residence or location, and such other facts and information as they are in possession of. Any such keeper, owner or clerk of any hotel or boarding house, or any such agent, tenant or owner of any tenement house, private residence or dwelling house, failing to notify the Health Commissioner of any person or persons being afflicted with any malignant, contagious or infectious disease, after having become aware, apprised or informed of the same, shall be deemed guilty of a misdemeanor, and on conviction in the Municipal Court shall be subject to a fine, not less than twenty dollars nor more than one hundred dollars.

Sec. 733. **Secreting Persons Having Infectious Diseases—Those Treating Same Must Make Report.**—Any physician, hotel keeper, hotel clerk, boarding house keeper or householder who

shall secrete any smallpox patient or mislead the Health Commissioner so as to prevent the control of the same, and every person who shall prescribe for or treat any case of scarlet fever, measles, typhoid fever, diphtheria, smallpox or any disease of a pestilential or epidemic nature, and shall not immediately on receiving knowledge that the person or persons are afflicted with any of said diseases, report the same to the Hospital and Health Board shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than ten dollars nor more than fifty dollars.

Sec. 734. Register of Persons Suffering From Tuberculosis.

—The board shall hereafter cause to be registered the name, address, sex and age of every person suffering from tuberculosis, when such disease reaches the infectious stage, within the limits of Kansas City, Missouri, so far as such information can be obtained by said board.

Every physician practicing within the limits of Kansas City, Missouri, is hereby required to forward to the board all information which he may obtain in regard to the existence of persons suffering from pulmonary tuberculosis, when the same has reached the infectious stage, within the limits of Kansas City, Missouri. Such information shall not be made public, published or communicated to any person outside of the board, and shall be used solely for the use of the Health Commissioner, and in no case shall visits be made to such persons by public officials, nor shall any public sanitary surveillance of such patients be assumed unless the patient reside in a tenement house, boarding house or hotel, and then only when the attending physician shall so request.

Sec. 735. Tuberculosis—Duty of Health Commissioner.—

Whenever the Health Commissioner obtains knowledge of the existence of cases of pulmonary tuberculosis, which have reached the infectious stage in tenement houses, boarding houses or hotels, within the limits of Kansas City, Missouri, and the case has not been or is not attended by a physician, the Health Commissioner may visit the premises and family, and leave circulars of information and instructions to the persons suffering from such disease, concerning the measures which should be taken to guard against the spread of the disease, and make such recom-

mendations for the cleaning or renovation of the premises as may be required to render it free from contagion.

Sec. 736. Tuberculosis—Vacated Premises—Duty of Health Commissioner.—In all cases where it comes to the knowledge of an officer of the board that premises which have been occupied by persons suffering from pulmonary tuberculosis in the infectious stage thereof, have been vacated by death or removal, it shall be the duty of the Health Commissioner to visit the premises and direct the removal of infectious articles, such as carpets, rugs, bedding, etc., and shall cause the same to be disinfected; and shall make such written recommendations concerning the cleaning and renovation of the apartment as may be required to render it free from contagion. It shall be his duty to issue an order to the owner, agent or occupant of such premises to cause all steps to be taken to render said premises free from contagion. No person or persons other than those residing in such premises at the time of the discovery of such case of infectious pulmonary tuberculosis shall be allowed to occupy such apartments until the order of the Health Commissioner in the premises has been complied with.

Sec. 737. Pneumonia—Report by Physician.—Every physician who shall prescribe for or treat any case of pneumonia within the limits of Kansas City, shall within three (3) days thereafter, report the same in writing to the Hospital and Health Department, giving the name, sex, age and residence of the party having the said disease.

Sec. 738. Pneumonia—Board Shall Keep Record of.—The Hospital and Health Department shall keep a record of all cases as of pneumonia reported to it, together with the names, sex, age and residence of the party having said disease, and the name and address of the physician treating the same.

Sec. 739. Penalty.—Every person who shall violate any of the provisions of the two next preceding sections shall be deemed guilty of a misdemeanor and shall be fined in a sum not less than ten dollars (\$10) nor more than twenty-five dollars (\$25) for each and every offense.

Sec. 740. Placards—Penalty.—When any case of smallpox, measles, diphtheria, membranous croup, scarlet fever or other infectious or contagious disease is reported, the Health Commissioner shall placard the dwelling where said case is found, whether tenement house, hotel or private residence, with conspicuous letters, said placard bearing the name of the disease, and any householder, hotel keeper, boarding house keeper, tenant, owner or other person who refuses to allow said placard on his dwelling or endeavors to prevent any officer from placing the same, or takes down or removes said placard, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum not less than twenty dollars nor more than one hundred dollars.

Sec. 741. Public Funerals.—No public funeral in case of smallpox, Asiatic cholera, diphtheria or membranous croup, shall be permitted within the city.

Sec. 742. Vaccination.—Parents and guardians shall cause their children and wards to be vaccinated before they are two years of age and so often thereafter as the City Council shall direct by ordinance.

Sec. 743. Vaccination—School Children—Duties of Teachers.—No teacher of any public, private or sectarian school shall, whenever there shall be an epidemic of smallpox in Kansas City, and the board shall by proper order find such exclusion to be necessary, receive into said school from the first day of October to the first day of June any pupil who has not been successfully vaccinated or who has not been revaccinated according to law; and the board shall provide a physician or physicians to inspect said pupils. Teachers of said school shall compel their pupils to show certificates of vaccination and shall keep a record of the same for the inspection of officers of the Hospital and Health Department.

Sec. 744. Penalty.—Any person who shall refuse, neglect or fail to comply with or who shall violate any provision of this article, shall, on conviction, where no other penalty is specially provided, be punished by a fine of not less than five nor more than five hundred dollars.

ARTICLE IV.

TENEMENT AND LODGING HOUSES.

| Section. | Section. |
|------------------------------------|---|
| 745. Definition of Tenement House. | 757. Number of Closets. |
| 746. Definition of Lodging House. | 758. Sewer Connections. |
| 747. Definition of Cellar. | 759. Cleansing Vaults. |
| 748. Duty of Agents. | 760. Flowing Water. |
| 749. Over-Crowding. | 761. Garbage. |
| 750. Closets and Slop Basins. | 762. Use of Tenement and Lodging Houses, Etc. |
| 751. Sanitary Condition. | 763. Cleansing Lodging Houses, Etc. |
| 752. Ventilation and Drainage. | 764. Inspection of Tenement Houses, Etc. |
| 753. Employment of Children. | 765. Penalty. |
| 754. Transom Windows. | |
| 755. Repair of Roofs. | |
| 756. Vaults and Slop Basins. | |

Charter, Art. III, Sec. 1, Cls. 4, 18.

Sec. 745. Definition of Tenement House.—A tenement house within the meaning of this article shall be taken to mean and include every house, building or portion thereof which is rented, leased, let or hired out to be occupied as the home or residence of more than three families living independently of one another and doing their cooking upon the premises; or by more than two families upon a floor so living and cooking, but having a common right in the halls, stairways, yards, water-closets or privies or some of them.

Sec. 746. Definition of Lodging House.—A lodging house within the meaning of this article shall be taken to mean and include any house or building or portion thereof in which persons are harbored or received or lodged for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any less time than a week.

Sec. 747. Definition of Cellar.—A cellar within the meaning of this article shall be taken to mean and include every basement or lower story of any building or house of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining.

Sec. 748. Duty of Agents.—Every agent or other person having the charge, control or management or who collects or who receives the rents of any lands, premises or other property in the city, shall disclose the name or names of the owner or owners

of such land, premises or property or the name or names of the person or persons for whom such agent or other person is acting, upon application being made therefor by an inspector, agent or officer of the Hospital and Health Department or the Department of Buildings.

Sec. 749. Overcrowding.—No owner, agent of the owner, lessee or keeper of any tenement house, lodging house, boarding house or manufactory shall cause or allow the same to be over-crowded, or cause or allow so great a number of persons to dwell, be or sleep in any such house or portion thereof as thereby to cause any danger or detriment to health.

Sec. 750. Closets and Slop Basins.—Every person who shall be the owner, lessee or keeper or manager of any tenement house, boarding house, lodging house or manufactory shall provide or cause to be provided for the accommodation thereof and for the use of the tenants, lodgers, boarders and workers thereat adequate privies or water-closets and slop basins; and the same shall be so adequately ventilated, and shall at all times be kept in such cleanly and wholesome condition, as not to be offensive or dangerous or detrimental to health; and no offensive smell or gases from or through any such privy or water-closet shall be allowed by any person aforesaid to pass into such house or into any other house or building.

Sec. 751. Sanitary Condition.—Every owner, lessee and tenant and manager of any boarding house or manufactory shall cause every part thereof and its appurtenances to be put in, and shall thereafter cause the same to be kept in a clean and wholesome condition, and shall speedily cause every apartment thereof, in which any person may sleep, dwell or work, to be adequately ventilated and lighted, and if the same be a manufactory shall cause every part thereof, in which any person may work, to be maintained at such temperature and be provided with such accommodations and safeguards as not, by reason of the want thereof, or of anything about the condition of any such manufactory or its appurtenances, to cause unnecessary danger or detriment to the health of any person being properly therein or thereat.

Sec. 752. Ventilation and Drainage.—No person having the right and power to prevent the same shall knowingly cause or permit any person to sleep or remain in any cellar, or in any place dangerous or detrimental to the health by reason of a want of ventilation or drainage, or by reason of the presence of any poisonous, noxious or offensive substance or otherwise.

Sec. 753. Employment of Children.—No person having the right and power to prevent same shall knowingly cause or permit any child under fifteen years of age to be employed at night in any place where machinery is used or more than eight hours in any day at any trade or employment and then only between the hours of seven o'clock a. m. and six o'clock p. m.

Sec. 754. Transom Windows.—Every house, building or portion thereof in Kansas City designed to be used, occupied, leased or rented, or which is used, occupied, leased or rented for a tenement or lodging house, shall have in every room which is occupied as a sleeping room and which does not communicate directly with the external air, a ventilating or transom window having an opening or area of three feet over the door leading into and connected with the adjoining room, if such adjoining room communicates with the external air, and also a ventilating or transom window of the same opening in such other place as the Superintendent of Buildings may direct, but no transom window shall be placed in a partition wall, enclosing a main stairway. Every such house or building shall have in the roof at the top of the hall an adequate and proper ventilator of a form approved by the Superintendent of Buildings.

Sec. 755. Repair of Roofs.—The roof on every such house shall be kept in good repair and so as not to leak, and all rain-water shall be so drained or conveyed therefrom as to prevent its dripping on ground or causing dampness in the walls, yard or area.

Sec. 756. Vaults and Slop Basins.—Every such building shall be provided with good and sufficient water-closets or privies or privy vaults and slop basins and shall have proper door, traps, soil pans and other suitable works and arrangements so far as may be necessary to insure the efficient operation thereof.

Sec. 757. Number of Closets.—Such water-closets or privies shall not be less in number than one to every twenty occupants of said house; but water-closets or privies may be used in common by the occupants of any two or more houses provided the access is convenient and direct and provided the number of occupants in the house for which they are provided shall not exceed the proportion above required for every privy or water-closet.

Sec. 758. Sewer Connections.—The owner or agent of the owner or lessee of every house situated upon a street or alley or lot in which there is a sewer, shall, when notified by the sanitary superintendent, or his agent, and within ten days thereafter have the water-closets or privies, vaults and slop basins furnished with a proper connection with the sewer, which connection shall be in all parts adequate for the purpose so as to permit entirely and freely to pass whatever enters the same.

Sec. 759. Cleansing Vaults.—All such water-closets and vaults and slop basins shall be provided with the proper traps and connected with the house sewer by a proper tight pipe and shall be provided with sufficient water and other proper means for flushing the same which shall be approved by the Superintendent of Buildings; and every owner, lessee or occupant shall take adequate measures to prevent improper substances from entering such water-closets or privies or their connections and to secure the prompt removal of any improper substances that may enter them so that no accumulation shall take place and so as to prevent any exhalation therefrom, offensive, dangerous or prejudicial to health and so as to prevent the same from being or becoming obstructed.

Sec. 760. Flowing Water.—Where no sewer exists in the street, the yard or area shall be so graded that all water from the roof or otherwise and all filth shall flow freely from it and all parts of it into the street gutter by a passage beneath the sidewalk which shall be covered by a permanent cover, but so arranged as to permit access to remove obstructions or impurities.

Sec. 761. Garbage.—Every tenement or lodging house shall have the proper or suitable conveniences or receptacles for receiving garbage and other refuse matter.

Sec. 762. Use of Tenement and Lodging Houses, Etc.—No tenement or lodging house or any portion thereof shall be used as a place of storage for any combustible article or any article dangerous or detrimental to health; nor shall any horse, cow, calf, swine, pig, sheep or goat be kept in said house.

Sec. 763. Cleansing Lodging Houses, Etc.—Every tenement or lodging house and every part thereof shall be kept clean and free from any accumulation of dirt, filth, garbage or other matter in or upon the same or in the yard, court, passage, area or alley connected with or belonging to the same. The occupant of any lodging house and the occupant or lessee or any tenement house or part thereof shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools and drains thereof of the house of which he is the occupant or lessee, to the satisfaction of the Health Commissioner so often as shall be required by or in accordance with any regulation or order of said Health Commissioner; and shall well and sufficiently and to the satisfaction of said Health Commissioner whitewash the walls and ceilings thereof, twice at least in each year and in the months of April and October, unless said Health Commissioner shall otherwise direct.

Sec. 764. Inspection of Tenement Houses, Etc.—The owner or keeper of any lodging house and the owner, agent of the owner and the lessee of any tenement house or part thereof, shall whenever any person in such house is sick of fever or of any infectious pestilential or contagious disease and such sickness is known to such owner, keeper, agent or lessee, give immediate notice thereof to the Hospital and Health Department or to some officer of the same and thereupon said department shall cause the same to be inspected and may, if found necessary, cause the same to be immediately cleansed or disinfected at the expense of the owner in such manner as it may deem necessary and effectual and said department may also cause the blankets, bedding and bed clothes used by any such sick person to be thoroughly cleansed, secured and fumigated. or in extreme cases, to be destroyed.

Whenever it shall be decided by the Health Commissioner that any building or part thereof is unfit for human habitation, by reason of its being so infected with disease or from other causes as to be likely to cause sickness among the occupants and

notice of such decision shall have been affixed conspicuously on the building or part thereof so decided to be unfit for human habitation, and personally served upon the owner, agent or lessee if the same can be found in the state, requiring all persons to vacate such building or part thereof for the reason to be stated therein as aforesaid, such building or part thereof shall, within ten days thereafter, be vacated or within such shorter time not less than twenty-four hours as in said notice may be specified.

Sec. 765. **Penalty.**—Every person who shall violate or neglect to comply with, or refuse to obey any part of the foregoing article or any part or section of the same, shall, when convicted of the same, before a court having proper jurisdiction, be fined not less than one dollar nor more than one hundred dollars.

ARTICLE V.

FOOD AND DRINK.

Section.

- 766. Inspection of Foods—Appointment—Term of Office.
- 767. Duties.
- 768. Salary—Bond.
- 769. Inspection of Food.
- 770. Inspection of Cows.
- 771. Selling Impure Food and Drink—Penalty.
- 772. Selling Food Containing Preservatives—Penalty.
- 773. Sale of Unwholesome Food.
- 774. Calf Meat.
- 775. Adulterating Fluids.
- 776. Adulterating Drugs.
- 777. Entering Premises—Destroying Food and Drink.
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- 779. Inspection of Wells and Springs.
- 780. Abating Impure Wells, Etc.—Penalty.
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- 784. Quality of Milk—Penalty.
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- 786. License of Milk Dealer.
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- 788. Milk Dealers, Register—Penalty.
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- 794. Sale of Oleomargarine, Butterine, Etc.—Penalty.
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- 803. Duty of Stock and Meat Inspector.
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- 806. Disposition of Condemned Meat—Penalty.
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- 811. Keeping Unwholesome Meat for Sale.
- 812. Diseased Cattle, Hogs, Etc.
- 813. Diseased Cattle, Hogs, Etc.—Disposition of.
- 814. Procedure After Killing Animals.
- 815. Proceeds of Sale of Dead Animals.
- 816. Sale of Congealed Butter—Penalty.
- 817. Penalty.

Charter, Art. III, Sec. 1, Cl. 15. Art. XIV, Sec. 1.

Sec. 766. Inspector of Foods—Appointment—Term of Office.—There shall be an Inspector of Foods, which officer shall perform such duties as may be now or hereafter prescribed by ordinance. The Inspector of Foods shall be appointed by the Mayor and confirmed by the Upper House of the Common Council, and shall hold office for the term of two years, and until his successor is appointed and qualified, or until removed according to law.

Sec. 667. **Duties.**—It shall be the duty of the Inspector of Foods to make and keep a record of all inspections made by him, and at the close of each week he shall report to the judiciary and rules committee of the Upper House of the Common Council a full and complete itemized list of all the inspections so made by him during such week.

Sec. 668. **Salary—Bond.**—The Inspector of Foods shall receive as his full compensation the sum of fifteen hundred (\$1,500) dollars per year, to be paid at the same time and in the same manner as other officers and employes of the city are paid, and he shall provide for his own use and at his own expense, a horse and buggy. Before entering upon his duties he shall enter into bond to Kansas City in the sum of two thousand (\$2,000) dollars for the faithful performance of the duties of his office.

Sec. 769. **Inspection of Food.**—The City Chemist shall have power to inspect all article of food and drink, wherever located, that may be sold or offered for sale, to analyze samples of the same on his own motion.

Sec. 770. **Inspection of Cows.**—The Health Commissioner shall make or cause to be made by the City Chemist such examinations, tests and inspections of foods, drinks and ice as he may deem necessary. The Health Commissioner shall also examine or cause to be examined any cows suspected of having tuberculosis or any disease rendering the milk thereof unfit for use, and for such purpose the Hospital and Health Board may employ a veterinary surgeon, at such price as may be agreed upon by the board, and also an inspector whose duties shall be to inspect milk, dairies, water, ice, fruits, vegetables and all other food sold or offered for sale and such other duties as said board may require of him.

Sec. 771. **Selling Impure Food and Drink—Penalty.**—Any person who shall sell, offer or expose for sale any milk, cream, water, ice, meats, butter or foods or drinks of any kind, knowing the same to contain bacilli of tuberculosis or other disease germs, or knowing the same to be adulterated, decayed, tainted, impure or unwholesome, or who shall sell, offer or expose for sale, any of the above mentioned articles or things after having been noti-

fied by the Health Commissioner or any officer of the Hospital and Health Department not to do so or who shall sell, offer or expose for sale, or keep on hand for the purpose of sale any milk or cream from any cow condemned after examination by the Health Commissioner or any other officer or agent of the Hospital and Health Department, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than fifty dollars and not more than five hundred dollars or punished by imprisonment in the city workhouse for a term of not less than one month nor more than six months or by both such fine and imprisonment.

Sec. 772. Selling Food Containing Preservatives—Penalty.—Any meat, fish or other food product which shall be treated with, or shall contain any of the salts of sulphurous acid, or other poisonous preservative or coloring matter is hereby declared to be unwholesome; and any person, firm or corporation who shall sell or offer to sell, serve or deliver or cause the same to be done, any meats, fish or any other kind of food in any form having therein and containing any of the salts of sulphurous acid or other poisonous, preservative or coloring matter, shall be deemed guilty of a misdemeanor.

Any person, firm or corporation violating the terms of this section shall, upon conviction thereof be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).

Sec. 773. Sale of Unwholesome Food.—No butcher, fore-staller, grocer, trader or other person shall sell, expose or offer for sale, in any public market or at any place within the limits of Kansas City any unsound, diseased, stale, rotten, fermented, nauseous or unwholesome meat, poultry, fish, vegetables, fruits or other articles of food or provisions, or the flesh of any animals dying otherwise than by slaughter, or any unwholesome bread, cake or pastry manufactured in whole or in part from unwholesome flour or meal.

Sec. 774. Calf Meat.—No person shall slaughter, sell, offer or expose for sale or barter or trade the meat of any calf less than four weeks old.

Sec. 775. Adulterating Fluids.—No person shall adulterate,

for the purpose of sale, any milk, liquor or fluid of any kind to be used for food or drink; and no person shall sell, offer or expose for sale, or give away, any such adulterated article.

Sec. 776. Adulterating Drugs.—No person shall adulterate, for the purpose of sale, any drugs or medicines of any kind; and no person shall sell, offer or expose for sale, or give away, any such adulterated drugs or medicines.

Sec. 777. Entering Premises—Destroying Food and Drink.—All officers and employes of the Hospital and Health Department and all officers whose duty it is to inspect food, drink or premises shall have power to enter on property for the purpose of inspecting and examining wells, cisterns, springs and all articles of food and drink. They shall have power to prevent the sale and use of all unripe, decayed and unwholesome food, all adulterated and impure milk and cream, and all ice containing impurities or cut and taken from any waters the cutting and taking of ice from which waters is by ordinance prohibited, and the sale and use of all unwholesome and deleterious articles of food and drink, by seizing and destroying the same or any of them.

Sec. 778. Destroying Unwholesome Food.—Before the destruction of any such substances or articles in the last preceding sections named, some city officer shall make oath that certain articles, describing the same, and naming the owner or person in charge thereof, are being sold or offered for sale; that the same are such as are prohibited by this chapter to be sold or offered for sale, and have been so declared to be by the Health Commissioner or City Chemist. When such oath shall be made or filed in the municipal court, the court shall issue a notice to the owner or person who has control and possession of such articles that such owner or person forthwith appear before him and show cause why such articles should not be destroyed. If such owner or person should fail to so appear, or should appear, and the court is satisfied that the articles seized and named in such oath are such as are prohibited by this chapter to be sold or offered for sale, then the court shall issue an order commanding the destruction of the same. Such proceedings shall be summary.

Sec. 779. Inspection of Wells and Springs.—The Hospital and Health Board shall pay especial and careful attention to all wells, cisterns and springs within the corporate limits; it shall have the same carefully inspected and examined and shall submit water therefrom to the City Chemist for examination and analysis.

Sec. 780. Abating Impure Wells, Etc.—Penalty.—Whenever the board is satisfied that the water in any well, cistern or spring is from any cause impure and unfit for cooking and drinking purposes, it shall so notify the owner and occupant of the premises on which such well, cistern or spring is located. If after the expiration of three days from the time of such notice, which shall be in writing, the party so notified shall have failed or neglected to proceed to remove the cause of the impurity and deleteriousness of the water in such well, cistern or spring, or to place the same in such a secure condition that the water cannot be taken therefrom, then for each day of such neglect and failure, such party shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than one nor more than ten dollars for each and every day of such failure and neglect.

Sec. 781. Fines Go to General Fund.—All fines collected for the violation of any provision of this article shall be turned into the City Treasury to the credit of the general fund.

Sec. 782. Skimmed Milk—Cream—Milk Tickets—Penalty.—Special and constant attention shall be given to the inspection, examination and analysis of milk, cream and buttermilk, sold, offered for sale, or served at hotels and restaurants, within this city. No person, firm or corporation shall sell, exchange or deliver, or have in his or their custody or possession, with intent to sell, exchange or deliver, milk from which the cream, or any part thereof, has been removed, unless there be marked distinctly, in a conspicuous place, above the center on the outside of every vessel, can or package containing said milk, the words, "Skimmed Milk;" said words shall be marked in or with a metallic substance substantially and securely soldered or brazed on said vessel, can or package; and said words shall be formed of uncondensed Gothic letters of not less than one (1) inch in height.

No person shall sell skimmed milk out of a can marked "Skimmed Milk," representing the same to be whole milk. Every person engaged in the sale of skimmed milk shall keep on hand a supply of gummed and cut labels having the words "Skimmed Milk" in uncondensed Gothic letters not less than one-third (1-3) of an inch in height; and when any such person shall sell, serve or deliver skimmed milk, he or they shall attach one such label to the vessel in which he or they have placed the skimmed milk for the purchases or customer. The sale of milk from cows infected with tuberculosis, or any disease rendering the milk thereof unfit for use, is hereby prohibited.

Every can, vessel or package containing cream to be sold, offered for sale, delivered, exchanged or served, shall have the word "Cream" distinctly marked thereon, on the outside thereof, above the center in uncondensed Gothic letters one (1) inch in height. Said letters to be of metallic substance securely soldered and brazed on said vessel, can or package. No milk ticket which has once been used shall be resold or used a second time.

Any person violating any of the requirements, or prohibitions of this section, shall be deemed guilty of a misdemeanor; and, upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200.)

Sec. 783. Adulterated or Diluted Milk, Cream and Buttermilk—Penalty.—Any person who shall sell, offer for sale or deliver any diluted milk, or any cream, milk or buttermilk containing any water, ice or foreign substance, or any adulteration, or any preservative, whether placed therein for the purpose of artificially increasing the quantity of the milk, cream or buttermilk, or for preserving the sweetness or condition thereof, or for any other purpose, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200.)

Sec. 784. Quality of Milk—Penalty.—Any person who shall sell any milk of any kind containing less than twelve (12) per centum of total solids; or any cream containing less than fourteen (14) per centum of butter fat; or any milk containing less than three (3) per centum of butter fat, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine

of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200); provided, that buttermilk, containing nine per centum or more of solids, other than butter fat, and skimmed milk as above provided, containing nine (9) per centum or more of solids, other than butter fat, may be lawfully sold; and nothing herein contained shall be so construed as to prohibit the use, sale or manufacture of what is known as "Condensed Milk."

Sec. 785. Second Offense—Penalty.—Any person who shall be convicted the second time, of having violated any of the provisions of the three next preceding sections shall, for the second offense, be deemed guilty of a misdemeanor, and shall, upon conviction be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). And in addition to such fine the milk or cream license of the person so offending shall be revoked.

Sec. 786. License of Milk Dealer.—Every milk and cream dealer's license shall be issued on the express condition that the licensee shall at all times permit officers or representatives of this city to visit, examine and inspect all cows, food therefor, stables and pastures and lots owned by said licensee or by persons from whom he obtains the milk and cream he sells or offers for sale; and also that the licensee shall furnish, free of charge, such small quantities of his milk and cream as may be needed from time to time for examination and analysis. Failing or refusing to comply with such conditions shall be cause for revoking such license.

Sec. 787. Milk, Delivery Wagons—Name and Address—Penalty.—Every person, firm or corporation, engaged in the sale, exchange, delivery or serving of milk, cream or buttermilk, or offering the same for sale from wagons or other vehicles, within the limits of Kansas City, shall have his or their names and business address marked plainly in some conspicuous place on said wagon or other vehicle, and shall have such name or business address to correspond with the name and business address on said wagon or vehicle, printed on the milk tickets or coupons used by said person, firm or corporation in connection with the sale, delivery, exchange or serving of said milk, cream or buttermilk.

Every person owning or using any milk wagons from which milk is delivered to customers in Kansas City, shall keep in plain, legible letters, large enough to be read fifty (50) feet away, printed on the right side of said wagon, the number of the license of the milk dealer using such wagon, and the date of its expiration.

Any person who shall violate the requirements or prohibitions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200.)

Sec. 788. Milk Dealers' Register—Penalty.—No person, firm or corporation shall sell or keep for sale or offer for sale any milk or cream without first registering with the Inspector of Foods as hereinafter provided. Every such person, firm or corporation shall make a written application for registration on a record kept for that purpose by the Inspector of Foods. Such application for registration shall contain the following:

First. The name and residence of the applicant, or, if a firm, the name and residence of each of the members of said firm, or if a corporation, the name and residence of the president and secretary of said corporation.

Second. The location of the business place or places of the applicant, giving the street and number of the same, and the number, name and residence of the person in charge of each place of business.

Third. The number of cows owned or controlled by the applicant and the location of applicant's dairy.

Fourth. The name of the owner or owners of, and the location of, the dairy or dairies of all persons from whom applicant obtains milk or cream supplies, and the number of cows owned or controlled by each.

Fifth. It is hereby agreed by applicant that the Inspector of Foods or one of his assistants may at any time inspect applicant's dairy herd or herds, dairy or dairies, and the dairy herd or herds and dairy or dairies of all persons from whom applicant obtains milk or cream, wherever located; and, if upon such inspection any dairy be found to be in an unsanitary condition, or the method of handling the milk or cream be unsanitary, or

any dairy herd be found to be diseased upon written notification thereof to the said applicant, said applicant hereby agrees, within five (5) days to discontinue his supply of milk or cream from such dairy or dairy herd, and if such supply of milk or cream be not discontinued within said time said applicant hereby agrees that his registration and certificate of registration may be revoked or suspended by said Inspector of Foods and, in such case said Inspector shall revoke or suspend such applicant's registration.

Sixth. Every applicant shall, as a part of his application, file a certificate or certificates of inspection of his dairy herd or herds, dairy or dairies, and file a certificate or certificates of inspection for each dairy or dairy herd from which he obtains his supply of milk or cream. Said certificate of inspection shall be issued by a registered veterinarian or by the Inspector of Foods or one of his assistants where so requested in writing by any applicant for registration, which said certificate of inspection shall be made after a thorough inspection and examination of the herd and dairy and shall indicate the physical condition of the dairy herd, the sanitary condition of the dairy and the method of handling and caring for the milk and cream. Where such inspection is made by the Inspector of Foods, or one of his assistants, it shall be without charge.

Every application for registration shall be subject to rejection by the Inspector of Foods for incompleteness or inaccuracy in applicant's application, or for any unsatisfactory report by the inspecting veterinarian or Inspector of Foods making an inspection as herein provided. If said application be approved by the Inspector of Foods he shall so endorse the application and issue to the applicant a certificate to that effect. No charge or fee shall be made by the Inspector of Foods for the application to register, registration or issuance of a certificate of registration. If, after the issuance of such certificate of registration, any change shall be made in the name of the firm, officers, manager or managers, place or places of business, location of dairy or dairies and sources of supply of milk and cream of any applicant, written notice thereof shall at once be given by the person having made the application to the Inspector of Foods, and such changes noted on such applicant's application for registration. Said applica-

tion and registration shall be renewed on each the first days of January and July of each year.

Every person, firm or corporation violating this section or any of its provisions shall be deemed guilty of a misdemeanor and on conviction thereof be punished by a fine of not less than twenty-five dollars (\$25), nor more than one hundred dollars (\$100) for each and every offense.

Sec. 789. Adulterated and Misbranded Foods—Penalties.—It shall be unlawful for any person to manufacture, within Kansas City, any article of food or confectionery which is adulterated or misbranded within the meaning of this section; and any person who shall violate **any of the provisions of this section** shall be guilty of a misdemeanor and for such offense shall, upon conviction thereof, be fined not to exceed one hundred dollars. It shall be the duty of the inspector of foods to see that the provisions of this section are enforced.

Any person who shall, within the limits of Kansas City, sell or offer for sale, **or have in his possession for sale in Kansas City**, any article of food or confectionery which is adulterated or misbranded within the meaning of this section, shall be guilty of a misdemeanor, and for such offense be **fined not exceeding one hundred dollars**.

That the Hospital and Health Board shall make uniform rules and regulations for carrying out the provisions of this section, including the collection and examination of specimens of food or confectionery manufactured or offered for sale in Kansas City. The rules and regulations which may be adopted in carrying this section into effect shall be as nearly identical as practicable with such rules as may be adopted for carrying into effect the act of Congress entitled "An act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906.

That the examination of specimens for food or confectionery shall be made by the Inspector of Foods, or under his direction and supervision, for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of this section; and if it shall appear from such examination that any of such specimens are adulterated or misbranded within the meaning of this section, the Inspector of Foods shall cause such notice thereof to be given to the party from whom such sample was ob-

tained. If any person, after such notice, shall violate any of the provisions of this section, then the Inspector of Foods shall at once certify the facts to the prosecuting office of Kansas City.

That it shall at all times be the duty of the prosecuting officers of Kansas City, to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay, for the enforcement of the penalties as in such case herein provided.

The term "food" as used herein, shall include all articles used for food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound.

That for the purposes of this ordinance an article shall be deemed to be adulterated.

In case of Confectionery: If it contain terra alba, barytes, talc. chrome yellow or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spiritous liquor or compound, or narcotic drug.

In case of food: First: If any substance has been mixed and packed with it so as to reduce or lower or injuriously effect its quality or strength.

Second: If any substance has been substituted wholly or in part for the article.

Third: If any valuable constituent of the article has been wholly or in part abstracted.

Fourth: If it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed,

Fifth: If it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health. Provided, that when in the preparation of food products for shipment that they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering of the package, the provisions of this section shall be construed as applying only when said products are ready for consumption

Sixth: If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whenever, manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

That the term "misbranded" as used herein shall apply to all articles of food, or articles which enter into the composition of food,

the package or label of which shall bear any statement, design or device, regarding such articles, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food product which is falsely branded as to the state, territory, country or place in which it is manufactured or produced.

That for the purpose of this section an article shall be deemed to be misbranded:

First: If it be an imitation of or offered for sale under the distinctive name of another article.

Second: If it be labelled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heron, alpha, beta, eucane, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any of such substances contained therein.

Third: If in package form, and the contents are stated in terms of weight or measure, that are not plainly and correctly stated on the outside of the package.

Fourth: If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular; provided that an article of food which does not contain any added or poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First: In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the same be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second: In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided that the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavor-

ing only; And provided further, that nothing in this ordinance shall be construed as requiring or compelling proprietors of manufacturers or proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this section may require to secure freedom from adulteration or misbranding.

Whoever offers, exposes or has in his or her possession for sale to dealers or consumers in Kansas City, Missouri, any article of food shall, upon application of the Inspector of Foods, or his assistant or agent upon tender of the value thereof, furnish a sample sufficient for the analysis of such article of food. Whoever is convicted of a refusal to sell such sample as provided herein shall be fined for such offense not less than five dollars nor more than fifty dollars. At the request of the person from whom such sample is purchased, such sample shall, whenever possible, consist of two unbroken packages, to be selected from the stock on hand by the inspector making the purchase, but the city shall not pay for more than one sample. One of such unbroken packages shall be sealed and initialed for identification, and remain with the person from whom the purchase is made, and one shall be retained by the Inspector of Foods or his assistant or agent, for the purpose of analysis. If less than an entire package is purchased, or if the food or confectionery purchased is not in an unbroken package, then the sample purchased shall be thoroughly mixed and divided into two equal parts, only one of which shall be paid for by the city. One of these parts shall be sealed and initialed for identification, and remain with the seller of the sample, and the other shall be retained by the Inspector of Foods, his assistant or agent, for the purpose of analysis.

The word "person" as used in this section, shall be construed to import both the plural and the singular, the masculine and the feminine, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this ordinance, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association, within the scope of his employment or office, shall in every case be deemed to be the act, omission, or failure of such corporation, company, society or association, as well as that of the person.

Sec. 790. Ice Cream, Inspection, Etc.—Penalty.—No person, firm or corporation shall manufacture, sell or offer for sale within the limits of Kansas City, Missouri, any ice milk, hoky poky, or any

frozen substance of which milk or cream shall form a component part, wherein such milk or cream shall contain less than two (2) per cent of butter fat in finished product.

No person, firm or corporation shall manufacture, sell or offer for sale within the said city as ice cream any product or substance in which the finished product shall contain less than twelve (12) per cent of butter fat.

No person, firm or corporation shall sell, exchange or deliver, or have in his or their possession with intent to sell, exchange or deliver, any ice cream, ice milk, hoky poky or frozen substance of which milk or cream containing less than twelve (12) per cent of butter fat shall form a component part, unless in a conspicuous place above the center on the outside of the outer vessel, can or package in which the same is enclosed, the words "ice milk" are distinctly marked in uncondensed Gothic letters, not less than one inch in height. Any person, firm or corporation retailing such ice milk or hoky poky, shall have in a conspicuous place in his place of business a card 7x11 inches in size, on which shall be printed in large readable type, "We sell ice milk" or "We sell hoky poky", as the case may be.

No person, firm or corporation shall manufacture, sell or offer for sale within this city, any ice cream, ice milk, hoky poky or other frozen substance of which cream or milk shall form a component part, having therein or containing any impure or unwholesome milk or cream, or any preservative or deleterious adulteration, or any substance containing a preservative or deleterious adulteration or any unwholesome matter of any nature whatever.

All utensils or packages used in the manufacture or sale of ice cream, ice milk, hoky poky or other frozen substance of which milk or cream forms a component part, shall, in each instance, be thoroughly cleansed before use, and no such utensils or packages shall be used for any other purpose.

It shall be lawful for the inspector of foods or any health officer of said city, and it shall be his duty at any time to enter into and upon any house, store or building where ice cream, ice milk, hoky poky or other frozen substance of which milk or cream forms a component part, shall be manufactured, stored or offered for sale, and to stop, detain and examine any person or persons, wagon or other vehicle carrying the same for sale or delivery, and to search for, inspect, view, try and analyze or cause to be analyzed the same or any part thereof, and if there shall be found any ice cream, ice milk, hoky poky or frozen substance of which milk or cream form a component

part, manufactured or offered for sale in violation of or contrary to any of the provisions of this ordinance, such officer shall seize the same in order to obtain a sample thereof and shall forthwith enter complaint before the municipal court against the person or persons guilty of such violation, and such inspector or other health officer shall for the purposes of the inspection and analysis hereinbefore provided for be authorized to take out of any package or vessel containing such ice cream, ice milk, hoky poky or other frozen substance of which milk or cream form a component part not exceeding one half pint of such substance, which shall be placed in a separate package and securely sealed and marked by the officer in the presence of the person in possession or in charge of such substance, provided, however, that no such articles can be destroyed except as provided in section 778 of article V of chapter 15 of the revised ordinances of Kansas City of 1909.

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment in the city workhouse for a period of not less than ten days nor more than six months or both such fine and imprisonment.

Sec. 791. Examination of Stables, Lots, Cows, Etc.—Penalty.—It shall be the duty of the Hospital and Health Board to at least once every two months, and as much oftener as it deems necessary and proper, cause to be inspected and examined all stables, lots and pastures where cows are kept and fed, whose milk or cream therefrom is sold in the city; as also the food such cows are fed, and the health and condition of such cows. If in the opinion of the officer making such inspection and examination any such cows are not fed on good and wholesome food, or are kept in an unhealthy or bad condition, or such stables and pastures are not properly cleaned and kept so, then he shall so notify verbally or in writing the owner or keeper of such cows, stables and pastures and also the persons who sell or offer for sale the milk or cream therefrom in the city. And if any such owner, keeper or person shall not at once cease to milk any cow in an unhealthy and bad condition, or shall refuse or neglect to at once proceed to clean such stables and pastures, the milk therefrom shall not be sold or offered for sale in the city until every objection thereto is abated and removed and kept so. Every person violating any provision in this section contained shall be deemed guilty of a misde-

meanor and on conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars.

Sec. 792. Manufacture and Sale of Preservatives—Penalty.—Any person who shall manufacture, compound, use, sell, or offer for sale any milk or cream adulteration or preservative, or any compound or substance whatever for the purpose of artificially preserving the sweetness or increasing the quantity of milk or cream or for any other purpose, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of five hundred dollars or by imprisonment in the city jail or workhouse for six months or by both such fine and imprisonment.

Sec. 793. Informers' Compensation.—Any person who shall first give any information to any member of the Hospital and Health Board or to any policeman or other officer that shall be the cause and means of arrest and conviction of any person violating the provisions of the next preceding section, shall be entitled to and receive one-third of the fine imposed and collected.

Sec. 794. Sale of Oleomargarine, Butterine, Etc.—Penalty. Every person who shall offer for sale in either retail or wholesale quantities any adulterated or impure butter or any compound resembling and used for butter, manufactured from any substance or matter other than pure milk or cream, or any compound commonly known as "oleomargarine," "butterine" or "suine" without first plainly and indelibly marking upon the vessel, refrigerator or receptacle containing the same words "adulterated butter" or "impure butter," or the word "oleomargarine," "butterine" or "suine," as may truly and correctly describe the contents of such vessel, refrigerator or receptacle, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars.

Sec. 795. Serving Oleomargarine, Butterine, Etc.—Penalty.—Any boarding house, hotel or restaurant keeper, owner or manager or steward who shall set before or offer to any guest, boarder or customer thereof any adulterated or impure butter or any compound resembling butter in appearance and used therefor or any compound resembling and used for butter, manufactured from any substance or matter other than pure cream or milk, or any compound commonly known as oleomargarine, butterine or suine, without first

plainly and indelibly marking on the dish, plate or vessel containing the same, the words "adulterated butter" or "impure butter" or the word "oleomargarine," "butterine" or "suine" as may truly and correctly designate the contents of such dish, plate or vessel, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars.

Sec. 796. Ice—Cutting in Corporate Limits—Penalty.—The cutting or taking ice from any pool, pond, river or stream within the city limits, for preservation or sale, except from the Missouri river is absolutely prohibited. Any person who violates this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the city jail or workhouse of not less than one month nor more than six months, or by both such fine and imprisonment, and all wagons from which ice taken from the Missouri river is sold shall have plainly printed on them in letters at least six inches high, the words, "Missouri River Ice;" provided, that the Hospital and Health Board may issue a certificate that any such pond, pool, river or stream (after duly inspecting the same) contains pure ice, in which event ice may be taken therefrom for preservation or sale.

* **Sec. 797. Registering by Ice Dealers—Penalty.**—Every person, before engaging in the business of an ice dealer, shall register in the office of the Hospital and Health Board, the location of his ice houses and all others from which the ice he sells, or offers for sale, is obtained, and the location of the water, and also the name thereof, from which the same was cut or taken, in a record to be kept for the purpose by the clerk of the board who shall give him a certificate of such registration. Every violation of any provision of this section shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, and no license shall be issued to any ice dealer till he shall produce the certificate of the board that this section has been complied with.

Sec. 798. Selling Impure Ice—Penalty.—Samples of ice shown or offered for sale in the city shall be frequently analyzed by the city chemist. Whenever it shall be ascertained that any ice dealer is selling or offering for sale any ice containing any impurities whatever, and which is, in the opinion of the city chemist, deleterious,

notice thereof shall be given in writing to such ice dealer, and the sale of all ice cut and taken from the same water as that inspected, examined and analyzed, shall be prohibited. If, after such notice, such ice dealer shall continue to sell or offer to sell any such ice, he shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the city jail or workhouse for not less than one month nor more than six months, or by both such fine and imprisonment.

Sec. 799. **Complaints.**—All complaints which any person may desire to make against any one for violation of any provision in this chapter contained, may be made to the Hospital and Health Board or any employe thereof; whose duty it shall be to at once bring such complaint to the notice of the Health Commissioner who shall inquire and examine into the same.

Sec. 800. **Interfering With Enforcement of Chapter—Penalty.**—Any person who shall in any manner interfere with or prevent or attempt to prevent the enforcement of any provision of this chapter shall be deemed guilty of a misdemeanor and on conviction shall be punished by fine of not less than five dollars nor more than one hundred dollars, when no other penalty is specifically provided herein.

Sec. 801. **Stock and Meat Inspector.**—The mayor shall, by and with the consent of the Upper House of the Common Council, appoint a stock and meat inspector, who shall serve for one year, and until his successor shall be appointed and qualified, and be liable to removal at any time the same as any officer expressly provided for in the City Charter to be appointed by the Mayor, with the consent of the Upper House of the Common Council. Such officer shall, before entering on the duties of his office, give bond to Kansas City in the sum of one thousand dollars.

Sec. 802. **Duty of Stock Yards Company.**—The Kansas City Stock Yards Company of Missouri, shall designate one gate in this city, at its stock yards, through which only all live and dead cattle, sheep and hogs shall be permitted to pass out from said stock yards, excepting only such animals as may be shipped out of said yard in railroad cars, in order to facilitate inspection as hereinafter provided.

Sec. 803. Duty of Stock and Meat Inspector.—The stock and meat inspector shall inspect all live and dead cattle, hogs and sheep that come into the city, and particularly all that come from the said stock yards; and as far as possible prevent any live animal and the carcass of any dead animal from coming into the city, or from passing out of such stock yards, contrary to law or any ordinance of the city. He shall also, as far as practicable, inspect all meat kept or offered for sale in Kansas City, and, as far as possible, prevent the sale for food purposes of all diseased or unhealthy meat. He shall promptly furnish to the city prosecuting officer, information of all violations of any ordinance of the city, touching diseased or unhealthy meat, or the sale thereof; and touching the keeping or bringing into the city, or from said stock yards, contrary to ordinance, or of any diseased animals, or the carcass of any dead one; and, so far as he can, enforce this chapter and all ordinances hereafter passed, designated to protect the public health and prevent the sale or use contrary to ordinance, of diseased or unhealthy meat. Nothing in this section shall be construed to require any inspection of any stock shipped out of said yards in railroad cars.

Sec. 804. Removal of Dead Animals From Stock Yards—Penalty.—No person shall take or cause or permit to be taken from any stock yard, wholly or in part, in the city, otherwise than in standard gauge railroad cars or in carts or wagons completely enclosed and covered, any carcass, or any part of a carcass of any dead animal, or any diseased or injured live animal of any kind usually slaughtered for food, or any diseased or injured animal of the cattle, hog or sheep kind. The owners, proprietors, managers and lessees of any stock yard shall, for the purpose of removal of any animal or the carcass thereof, of the kind aforesaid, in the manner herein provided, permit, without molestation or interference, entry upon its premises within the corporate limits of this city by the owner of any such animal, animals, or carcass or carcasses thereof, and for the said purpose, shall permit a similar entry upon its premises by any purchaser of such animal, animals, carcass or carcasses, or by the agents, servants and employes of such owner or purchaser, and the person or persons so removing, or causing to be removed any such animal, animals, carcass or carcasses thereof, shall, not later than the first business day after such removal, report such removal, the date thereof and the place to which such removal was made, to the Hospital and Health Department. A violation of this section shall be deemed a misdemeanor,

and every person convicted of violating this section shall be fined not less than ten dollars nor more than one hundred dollars.

Sec. 805. Inspection of Slaughter Houses—Unwholesome Meats, Etc.—The stock and meat inspector shall visit all slaughter houses, packing houses, meat markets and such other places where animals are slaughtered or kept for sale for human food within the corporate limits, and shall make monthly reports to the Health Commissioner regarding the same. Whenever the stock and meat inspector finds in the City of Kansas City, and meat of any kind, including the flesh of birds or any kind of fowls or any fish, that he believes to be unwholesome or bad or unfit for use as food and unless the person in charge or possession as aforesaid shall then and there appeal from the decision of the inspector as hereafter provided, he shall immediately saturate the same with coal oil and notify the person in charge thereof to dispose of the same as provided in the next section.

Sec. 806. Disposition of Condemned Meat—Penalty.—Any person or persons having possession or charge of any such meat or fish as are described in the next preceding section, shall at once remove the same from the store, shop or stall, or other place, where the same may be, and destroy the same, or dispose of the same to some tanking concern or rendering establishment or cast the same into the Missouri river at such place and in such a way that it will float down stream; and the failure so to do shall be a misdemeanor, and on conviction thereof said person or persons shall be fined not less than five nor more than fifty dollars; *provided*, however, if the person or persons so notified shall think the articles fit and wholesome for food, he or they may, at the time of being so notified, tell or notify the stock and meat inspector that he appeals from the decision to the Health Commissioner; and in that event such person or persons may, during the same day, get the Health Commissioner to examine the article or articles so condemned by the stock and meat inspector, and, if he decides the same wholesome and fit for food, the same may be sold as if not condemned by the stock and meat inspector.

Sec. 807. Decision of Health Commissioner.—If the Health Commissioner confirm the decision of the stock and meat inspector, the article shall be disposed of at once, after the decision of the Health Commissioner, as if there had been no appeal.

Sec. 808. Entering Premises—Inspecting Same.—The stock

and meat inspector, in the discharge of his duties, shall have the right to enter all hotels, restaurants, boarding houses and all meat shops, and every building where any kind of meat or stock may be kept except private residences, and therein to examine the contents of any ice box or other place where meat may be kept, and it shall be his duty to notify the proprietor or person in possession or charge of any ice box or receptacle for meat when the same may be in a filthy or unwholesome condition to at once thoroughly cleanse the same, and it shall be duty of the said proprietor or person in charge to promptly comply with such order.

Sec. 809. Qualifications of Stock and Meat Inspector.—The stock and meat inspector must be a practical and experienced butcher, and be acquainted with all diseases that cattle, hogs and sheep are subject to.

Sec. 810. Age of Calves and Pigs.—No calf, pig or lamb, or the meat thereof, shall be bought, held or offered for sale as human food in said city, which, at the date of its slaughter being a calf, was less than four weeks old; or being a pig was, when slaughtered, less than four weeks old; or being a lamb was, when slaughtered, less than eight weeks old.

Sec. 811. Keeping Unwholesome Meat for Sale.—No blown, plaited, raised, stuffed, putrid, impure, unhealthy or unwholesome meat shall be bought, sold, or offered for sale for human food, or held or kept in any market, public or private, in said city; nor shall the flesh of any dead animal which was sick, overheated or run down by dogs, cars or otherwise, or tramped, so as to overheat its flesh, be so bought, sold, offered for sale or kept as aforesaid.

Sec. 812. Diseased Cattle, Hogs, Etc.—No person or persons shall bring into this city, or cause to be brought into it in any manner, or sell, or offer to sell (except for tanking purposes) any cattle with enlarged upper or lower jaws, having ulcers or running sores, commonly called big jawed cattle, or any animal fevered or emaciated from any known or unknown disease, or suffering from any disease whatever, hogs suffering from cholera, or any animal or animals, or the carcass of any animal, of whatever kind, in a condition unfit for food or culinary purposes; *provided*, however, that sows heavy with pigs may be brought into this city and sold under the supervision of the inspector.

Sec. 813. Diseased Cattle, Hogs, Etc.—Disposition of.—

All such meat and animals described in the previous section brought into or found at any point in this city shall be inspected by the stock and meat inspector immediately upon their arrival or discovery, and if found on such inspection to be unfit for food or culinary purposes, the owner or person claiming to own the same, or the person in charge thereof, shall immediately on the order of the inspector remove and sell said meat, carcass, animal or animals to any tanking or rendering establishment whose products are not used for food purposes; *provided*, however, that said inspector shall kill cattle found at any stock yard or place where large upper or lower jaws, commonly called big jawed cattle, having ulcers or running sores on them, cattle emaciated from any known or unknown disease, hogs affected with cholera or other diseases, or animals with broken limbs that have become fevered, on the refusal of the owner or person in charge or the person claiming to own the same, to dispose of them and cause them to be removed, after inspection, condemnation and order of removal to a tanking or rendering establishment by the inspector as herein provided.

Sec. 814. Procedure After Killing Animals.—

Whenever the meat inspector shall have killed any animal as provided in the preceding section, he shall at once cause notice in writing of such killing to be served upon the owner of the animal killed or the agent thereof. If within three hours after such notice is served, such owner or agent fails to remove the carcass of the animal killed, or whenever neither such owner nor agent can be found, the meat inspector shall immediately proceed to sell such carcass at public sale to the highest bidder.

Sec. 815. Proceeds of Sale of Dead Animals.—

All money received from the sale of dead animals, as in this chapter provided, shall, after deducting all necessary costs and expenses incurred in executing the provisions of this chapter, be paid into the city treasury subject to the order and disposition of the owner of the animal killed and sold, which ownership shall be properly proved to the satisfaction of the mayor and comptroller; *provided*, however, that if no claim for any such money be made within two years from the time the same is paid into the city treasury, then said money shall be the property of the city.

Sec. 816. Sale of Congealed Butter—Penalty.—

firm or corporation shall manufacture or sell, or offer for sale, in Kansas City, Missouri, what is commonly known as congealed butter.

It is hereby made the duty of the inspector of foods to inspect and analyze butter which is manufactured or offered for sale in this city whenever complaint is made to him that the same is congealed butter; and said inspector shall report to the prosecuting officer of the city for prosecution all persons, firms or corporations manufacturing, selling or offering the same for sale.

Whenever the moisture contained in any butter shall equal or exceed twelve (12) per centum of water, the same shall be and is hereby taken to be imitation or congealed butter, within the meaning of this ordinance.

Any person, firm or corporation violating, failing, neglecting or refusing to comply with any provision of this ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be fined in a sum not less than five (\$5) dollars nor more than five hundred (\$500) dollars.

Sec. 817. **Penalty.**—Any person, firm or corporation who shall violate or fail to comply with any of the terms or requirements of this article shall be guilty of a misdemeanor and on conviction, where no other punishment is especially provided, shall be fined in a sum not less than one dollar and not more than one hundred dollars.

ARTICLE VI.

CITY SCAVENGER.

| Section. | Section. |
|--|---|
| 818. Appointment and Term of Office. | 823. Precautions in Removing Dead Animals. |
| 819. Compensation. | 824. Contract for Removal of Dead Animals. |
| 820. Duties. | 825. Regulations for Hauling Offal Through the Streets. |
| 821. Reports of Existence of Dead Animals. | 826. Penalty. |
| 822. Notice to Police Station. | |

Sec. 818. **Appointment and Term of Office.**—There shall be a City Scavenger, who shall be appointed by the Mayor by and with the advice and consent of the Upper House of the Common Council, and who shall hold his office for the fiscal year during which he is appointed unless sooner removed, and until his successor is duly appointed and qualified.

Sec. 819. Compensation.—He shall receive as compensation for his services such sum as may be provided by ordinance. He shall, at his own cost and expense, furnish the necessary teams, wagons, tools and appliances for the performance of his official duties.

Sec. 820. Duties.—It shall be the duty of the City Scavenger to remove from the streets, alleys and public places of the city, all dead animals liable to become noxious or detrimental to public health, to remove all debris, filth and dirt from the market house and wagon stands adjacent thereto, to clean all filth and manure from the police barn, to remove the ashes and other debris from the city hospital and its grounds, and to perform such other similar duties as may be required of him by the city physician, health officer or board of hospital, health. He shall call daily at the office of the chief of police and the Hospital and Health Board for lists showing the location of such dead animals.

Sec. 821. Reports of Existence of Dead Animals.—All members and employes of the Hospital and Health Department, all policemen and officers of police, all members and employes of the Fire Department, Department of Engineering and Department of Street Cleaning shall make immediate report to the Hospital and Health Board of any dead animal within the city not proper for food and liable to become noxious or detrimental to public health, as soon as they shall have any knowledge or information of the existence of the same, and the Hospital and Health Board shall at once cause to be entered such report in a book kept for the purpose, designating the location of such dead animal, the hour when and the person by whom reported. Said book shall at all times be open to the inspection of the public.

Sec. 822. Notice to Police Station.—Every person having within his possession or under his control or upon any premises occupied or controlled by him, any dead animal not proper for food and liable to become noxious or detrimental to public health, shall at once give notice thereof to the officer in charge of the nearest police station, and such officer shall at once cause notice thereof to be given to the Hospital and Health Board.

Sec. 823. Precautions in Removing Dead Animals.—The utmost precaution shall be used in the removal of such dead animals, that the same may be conveyed in the most inoffensive manner pos-

sible. The carcass shall, while being removed, be covered with tarpaulins or otherwise, and the teams conveying the same shall not be allowed to stop on the way unless detained by some unavoidable accident or cause.

Sec. 824. Contract For Removal of Dead Animals.—That the Hospital and Health Board is authorized and instructed to proceed without delay to, and shall from time to time, as may be necessary to carry out the provisions of this section, advertise for five (5) days in the newspaper doing the city printing for bids (reserving the right to reject any and all bids) for and the removal and final disposition of dead animals, not fit for human food, brought into or located at any place within the city (except such as may be rendered upon private premises where found and without removal through any street or public place in Kansas City) and to award a contract to the highest and best bidder therefor in accordance with specifications to be drawn by said Board and on file in its office at the time of such advertisement. Such contract shall be executed by the President of the Board in behalf of Kansas City, but same shall not be binding upon the city until confirmed by ordinance. Said contract shall provide that the city grant to the said contractor, and that the said contractor shall have the sole and exclusive right to, and shall remove all such dead animals for the period of ten (10) years within such time or times, and the work to be done in such manner as may be prescribed by sanitary regulations and ordinances now or hereafter in force; that such work shall be performed so as to be inoffensive to the senses and without prejudice to the public health, and to the entire satisfaction of the said board. Said contract shall also provide a cash penalty for failure of the contractor to comply with the terms thereof; and that, in the event of continuous failure to comply with the terms of said contract, the city shall have the right to declare a cash penalty and forfeiture and to cancel the contract upon proper notice to the contractor. Nothing in this ordinance contained, nor shall any contract made hereunder, render Kansas City liable for failure to give good title to any dead animals to any person, firm or corporation so contracting with the city for the removal and final disposition of dead animals as against any person, firm or corporation, other than the City of Kansas City. No person, firm or corporation, except the person, firm or corporation having the contract with the city for, and the removal and final disposition of dead animals not fit for human food, shall engage in the business or occupation of conveying nor convey such dead animals covered by this ordinance through or along

a street or public place of the city, and it shall be unlawful for any person, firm or corporation to in any manner interfere with the collection and transportation of such dead animals by such city contractor, when acting in accordance with the terms of his contract, the ordinances of the City of Kansas City, and the rules and regulations of the Hospital and Health Board thereof; *provided*, however, that the owner of any such animal which shall die on his own premises may remove or dispose of the same at any time within one hour after its death. Or if the contractor shall fail, neglect or refuse to remove any such dead animal within the time specified by the Board in the contract made as hereinbefore described and fixed as a reasonable time, then any individual suffering annoyance therefrom, his agent or employe, may remove or dispose of the same at his own expense.

Sec. 825. Regulations for Hauling Offal Through the Streets.—No person shall collect or haul through the streets of the city, any offal from any butcher shop, hotel or grocery, unless the same is placed in wagons provided with wooden or iron covers. Such wagons, shall be of such a height and such covers shall be made in such manner as the Hospital and Health Board may direct. Said wagons shall be regularly disinfected, and shall be kept as free from offensive odors as possible.

Sec. 826. Penalty.—Any person violating or neglecting or refusing to comply with any regulation, requirement or provision of this article, shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined in a sum not more than one hundred dollars for each and every such offense.

ARTICLE VII.

GARBAGE.

| Section. | Section. |
|--|---|
| 827. Removal of Garbage—Contract, Etc. | 833. What May Be Deposited in Garbage Receptacle. |
| 828. Definition. | 834. Failure of Contractor to Remove Garbage. |
| 829. Not to Be Used as Food for Live Stock, Etc. | 835. Powers and Duties of Board. |
| 830. Garbage Receptacles. | 836. Duties of Police. |
| 831. How Hauled. | 837. Penalty. |
| 832. Where Deposited. | |

Charter, Art. IV, Sec. 13.

Charter, Art. XIV, Sec. 1, Subd. (1).

Sec. 827. Removal of Garbage—Contract, Etc.—As a sanitary measure, and for the purpose of securing the general health of the inhabitants of this city, the hospital and health board is hereby authorized and directed, by a vote of a majority of its members to provide by contract, for the removal of garbage from such streets, alleys, highways, market houses, public buildings, and institutions in all parts of the city as it may deem necessary. And said board shall, from time to time as it may find it necessary, execute and enforce all the provisions of this ordinance.

Whenever the board shall deem it necessary, it may advertise for five days in the newspaper doing the city printing, for bids for the removal of garbage, in such parts of the city as it may deem necessary, and shall award contracts therefor, to the lowest and best bidder. The contract so entered into shall be for such a period as, in the discretion of said board, it may deem necessary or advisable; and whenever said board shall deem it advisable, it may insert in said contract a clause giving it the option to extend or renew said contract from time to time, upon the same terms and conditions as is specified in the original contract. Such contract shall be executed in behalf of the city, by the Hospital and Health Board. In every case where such a contract is awarded by the board it may require a bond, with good security to be approved by said board, from the contractor conditioned on the faithful fulfillment of the contract; *provided, further*, that the board may employ, for the temporary removal of garbage, such number of teams and inspectors by the day as it may deem best for the interests of the city.

All bids and contracts shall be for the removal of garbage in compliance with the provisions of this article and such specifications as may be prepared and on file with the board. And the compensation therefor may be for a fixed sum for each load of not less than

one cubic yard of garbage. Or, if the board shall so determine, and direct in its specifications, said compensation may be for a fixed sum for any period of time designated by said board. Said contract shall further provide that the contractors shall be required to dispose of garbage under the directions of the board, by dumping into the Missouri River by reduction, or the same may be disposed of in any other sanitary manner which shall seem to said board necessary and proper.

Sec. 828. Definition.—The word “garbage” as used in this article shall be construed to mean house and kitchen offal, and all refuse matter, whether solid or liquid, and composed of animal or vegetable substance. No ashes, dirt or other substance foreign to garbage, shall be placed or mixed with it.

Sec. 829. Not to be Used As Food for Live Stocks, Etc.—No contractor will be permitted to feed garbage to live stock, hogs, poultry or other animals within the limits of Kansas City, nor to sell or give away garbage to any person or persons for such use within the limits of Kansas City.

Sec. 830. Garbage Receptacles.—Garbage receptacles, from which citizens expect their garbage to be removed from dwelling houses and boarding houses must be water tight, and of strong material, with proper covers, and of a capacity of not less than five nor more than fifteen gallons; must be portable, and be provided with suitable handles on two sides thereof; and shall be placed upon the premises in such manner as may be designated by this article.

All houses and premises that are occupied shall be provided by the occupants thereof with a sufficient number of such receptacles to contain all the garbage that may come from such house or premises during the time between the collections thereof either by the garbage contractor or such garbage collectors as may be employed by the board. When there is more than one occupant of any building, or premises, such occupant shall provide the necessary receptacles for the deposit of his garbage; and every owner or agent of a house and premises having more than one occupant are, by this ordinance, charged with the duty of having such house and premises provided with the necessary receptacles for the deposit of garbage therefrom. Such receptacle shall be placed and kept at some place on the premises convenient for the garbage contractor, or the person whose duty it is to collect garbage for the city, and at such place as may be designated by any mem-

ber or officer of the board. The word "occupant," as herein used, shall be construed to be the person occupying the house or premises and who is a tenant or owner thereof.

All the garbage from all premises shall be placed and kept in said receptacles and nowhere else; and no one shall place more garbage therein than will prevent the same from being handled without the garbage dropping out.

Sec. 831. How Hauled.—No one shall remove and haul garbage on and along any street, alley or avenue in the city, except the same be contained in water-tight carts, wagons or barrels, having tight fitting wooden or metallic covers, so constructed as to prevent the escape of offensive odors, and in such manner as may be provided by the board.

Sec. 832. Where Deposited.—No contractor, or other person, removing any garbage, shall deposit the same at any place other than that named by the board for such purpose.

Sec. 833. What May Be Deposited in Garbage Receptacle.—No person shall deposit in any garbage receptacle any dirt, ashes, tin cans, saw dust, grass, manure, straw, or anything but animal and vegetable matter.

Sec. 834. Failure of Contractor to Remove Garbage.—If any contractor shall fail, refuse or neglect to promptly and efficiently remove all the garbage in accordance with his contract, or to comply with the terms of his contract, the same shall be reported to the board, which may, by resolution, declare the contract null and void. And thereafter on notice from the board, that his contract is terminated, such contractor shall not further remove any garbage within the limits of the city, and the board may proceed at once to enter into a new contract for the removal of garbage.

Sec. 835. Powers and Duties of Board.—The Hospital and Health Board and the members thereof are especially charged with and empowered to enforce the provisions of this article and in the performance of such duty, said board shall have the power to go upon and inspect all premises and houses, and all violations of this article shall be speedily punished. The board shall have the power to employ one or more persons for such work as they may deem proper, at a compensation of not more than two dollars (\$2.00) per day, who shall inspect the work

of the garbage contractor, and see that all contracts are complied with; and that the garbage is being removed in accordance with the provisions of this article, or with any contract made pursuant to its provisions.

Sec. 836. Duties of Police.—It shall be the duty of each and every policeman to examine and inquire into the removal of garbage, and the compliance with the provisions of this article and the contracts entered into in pursuance thereof, in that part of the city, which may constitute his beat. He shall promptly report to the board any and all violations of any provision of this article, or of any contract entered into in pursuance thereof.

Sec. 837. Penalty.—If any person shall violate or fail to comply with any provision of this article, he shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than one and not more than one hundred dollars.

ARTICLE VIII.

VAULTS AND CESSPOOLS.

Section.

- 838. Dimensions of Vaults.
- 839. Sewer Connections.
- 840. Filling Vaults.
- 841. Removing Contents.
- 842. Manner and Cost of Removing.
- 843. Tanks and Wagons.
- 844. Removal in Day Time.
- 845. Permits.

Section.

- 846. Contents of Permits.
- 847. License.
- 848. Wagon Tanks.
- 849. Bond of Cesspool Cleaners.
- 850. Offensive Vaults, Cellars, Etc.
- 851. Deodorizing Vaults and Cellars.
- 852. Vaults, Nuisances.
- 853. Penalty.

Sec. 838. Dimensions of Vaults.—All privy vaults and cesspools shall not be less than eight (8) feet deep, the sides and bottom to be built with hard-burned brick, with fresh lime and sand or cement mortar, and to be plastered on the sides and bottom with best quality of hydraulic cement mortar, so as to be water-tight.

Sec. 839. Sewer Connections.—No person shall make or cause to be made any sewer connection with privy vaults or cesspools, unless the same shall be perfectly clean.

Sec. 840. Filling Vaults.—No person shall fill up privy vaults with earth or other materials until the same has been cleaned.

Sec. 841. **Removing Contents.**—No person shall remove part of the contents of a privy vault or cess-pool, without removing all the contents at the same time.

Sec. 842. **Manner and Cost of Removing.**—No person shall be allowed to move any of the contents of privy vaults or cess-pools only in perfectly tight tanks or casks, which shall be on regularly licensed wagons. Persons so moving any of the contents of the above mentioned vaults or cess-pools shall not be allowed to charge more than ten cents per cubic foot for privy vaults and four cents per cubic foot for cess-pools, for such contents taken out.

Sec. 843. **Tanks and Wagons.**—All persons or corporations engaging in the business of cleaning liquid vaults or cess-pools or in removing contents of same, within the corporate limits of Kansas City, Missouri, shall provide for the removal of the same, odorless sanitary pumps and air-tight odorless tanks set upon wagon trucks. Any person or corporation engaged in such business shall pump the contents of any vault, privy or cess-pool if liquid enough to pump, directly into the odorless tanks set upon wagon trucks by means of such odorless sanitary pumps; and no vault, privy or cess-pool shall be emptied or the contents thereof removed in any other manner than is herein provided; *provided, however*, that when the contents of any such vault, privy or cess-pool is of such a consistency that said odorless sanitary pumps can in no way be used in the removal thereof, then the same shall be taken out and removed in odorless tight barrels, in wagons, said barrels to be kept thoroughly clean and to have air-tight covers.

Sec. 844. **Removal in Day Time.**—The contents of such privy vaults or cess-pools shall be removed only in the day time and to such places as the Hospital and Health Board may designate for that purpose.

Sec. 845. **Permits.**—No person or corporation shall empty or remove, or cause to be emptied or removed, the contents of any vault, privy or cess-pool, within the corporate limits of Kansas City, without a permit therefor from the Hospital and Health Board.

Sec. 846. **Contents of Permits.**—Such permit shall specify the time and between what hours the contents of any vault, privy or cess-pool, are to be removed, such permit shall be returned to

the board within six (6) days after said permit is taken out, with certificate from keeper of dump where the contents of said vault or cess-pool was deposited.

Sec. 847. **License.**—Any person desiring to engage in the business of cleaning vaults, privies or cess-pools, shall first obtain a license from Kansas City, for each wagon used or employed in such business, and the charge for such license shall be fifteen dollars per year for each wagon so used; and no person or corporation shall engage in such business without first having obtained such license.

Sec. 848. **Wagon Tanks.**—Before any wagons or tanks shall be used for the purposes specified in this article, they shall be well painted and kept so painted, and the wagon beds shall be at least thirty-six inches high on sides and ends and sideboards shall be built straight without flanges and in such a manner as the Hospital and Health Board may direct. Such wagons shall have painted on the sides thereof in plain, uncondensed Gothic letters, the number of the wagon and the name and address of the proprietor or the corporation to whom the same belongs, and there shall also be painted on the sides of such wagon the words "vault and cess-pool wagon." Such letters shall be not less than five and one-half inches in height and of uniform width and shall be painted in such a manner as the board may direct; *provided, however*, that said air-tight odorless tanks shall have all letters as provided above, but do not have to be built the same height, or the same shape as wagon beds for hauling barrels.

Sec. 849. **Bond of Cess-pool Cleaners.**—Any person or corporation engaged in the business of vault and cess-pool cleaning shall enter into a bond to Kansas City in the sum of one thousand dollars to insure a faithful compliance with the ordinances of the city; said bond shall be approved by the City Comptroller. And the City Auditor is hereby instructed not to issue any license to anyone engaged in the cleaning of vaults and cess-pools unless he shall show to said auditor a certificate from the Health Commissioner, certifying that said applicant for license has complied with all the provisions of this chapter. The cleaning of all vaults and privies shall be done in such a manner and at such a time or times as is or may be prescribed by ordinance or regulated by the board. The said board, for the purposes herein mentioned, is hereby vested with full power to

make all necessary rules and regulations, and is further charged with the duty of seeing that the work of cleaning is performed without creating a nuisance, and in as inoffensive and odorless a manner, as free from foul odors and gases as possible.

Sec. 850. Offensive Vaults, Cellars, Etc.—No person shall allow or suffer any cellar, vault, private drain, pool, cess-pool or sewer upon any premises owned or occupied by him, or under his control, to become nauseous, offensive or disagreeable to the smell or injurious to the health of any inhabitant of the neighborhood thereof, or to the public health.

Sec. 851. Deodorizing Vaults and Cellars.—From the first day of May to the first day of October of every year the contents of every privy vault, water sink and cess-pool shall, by the owner, occupant or person in charge of any houses, building or premises where the same are situated, be thoroughly deodorized and disinfected with lime or other disinfectant once every week.

Sec. 852. Vaults, Nuisances.—All privy vaults and cess-pools, the contents of which are nearer than three feet to the surface of the earth immediately adjacent to such vault or cess-pool, are hereby declared to be nuisances; and the agent, owner or occupier of the premises upon which such vault or cess-pool is located shall at once cause all the contents of such vault or cess-pool to be removed.

Sec. 853. Penalty.—Any person violating or failing to comply with any of the provisions of this article or any of the rules or regulations made by the Hospital and Health Board, by virtue of authority for that purpose conferred in this chapter, shall be fined not less than five dollars nor more than one hundred dollars for each offense.

ARTICLE IX.

MISCELLANEOUS PROVISIONS.

Section.

854. Private Hospitals—Baby Farms, Etc.—Location.
 855. Baby Farm—Permit.
 856. Must Make Report—Adoption or Removal of Children.
 857. Record to Be Kept by Board.
 858. Institution Unsanitary—Revocation of Permit.

Section.

859. Penalty.
 860. Dumping Manure, Garbage, Etc. Into Street, Etc., Adjoining City Limits—Penalty.
 861. Distribution of Drugs and Medicine—Permit—Penalty.

Charter, Art. III, Sec. 1, Cl. 4.

Sec. 854. Private Hospitals—Baby Farms, Etc.—Location.—No person, firm, society, association or corporation, shall carry on or conduct any private hospital, lying in hospital, baby farm, sanitarium, health resort or other place maintained or conducted for the purpose of caring for the sick, or aged, or infirm, or injured, or other persons without first furnishing the Hospital and Health Board, in writing, on blanks to be prepared by said board for that purpose, the name and location of any such institution, individual or corporation and the names and addresses of its managers, officers and owners, and the purpose for which it is to be conducted and whenever a change in location or management or ownership thereof shall be made, like notice of any such change shall be so furnished said board, and if said board approve the location it shall endorse its approval thereon in writing; and it shall be unlawful to locate or operate any such institution without such approval and endorsement being first obtained.

Sec. 855. Baby Farms—Permit.—Any person, firm, society, association or corporation engaged in the business of keeping or boarding more than one child under two years of age, for pay, or receiving infants for the purpose of securing homes for them for pay shall obtain a permit from the Board of Hospital and Health. Such permit shall contain the certificate of the Health Commissioner that he is personally acquainted with the applicant, and that the person if an individual, or persons having the management of the firm, society, association or corporation is or are of good moral character and competent to take care of children.

Such permit shall contain a description of the premises into which such children may be received, and shall state the number of children which may be received at one time and such permit shall not be issued for a period longer than one year, and but one permit may

be issued for any certain premises, and no such permit shall be issued unless such premises and furnishings are, in the opinion of the City Physician, properly equipped for caring for such children and are in fit sanitary condition. And the location of said premises shall be approved in writing by the Hospital and Health Board.

Sec. 856. Must Make Reports—Adoption or Removal of Children.—Any person, firm, society, association or corporation receiving such permit shall within three days after receiving or disposing of the child report in writing to the Board of Hospital and Health its name, age, nationality and sex. Also the name, age, sex, nationality, occupation and residence, so far as can be ascertained, of the person placing the child in such care, or of the person into whose care any child is given, or if any child is received from a hospital or other institution taking charge of women during confinement, the name of the party managing such institution shall be given, together with its location. No such person, firm, society, association or corporation shall allow or permit or consent to the adoption of any such child or children or discharge or permit the taking away of any such child or children from the premises without the written consent of the Health Commissioner to such adoption, discharge or taking away, and no person, firm, society, association or corporation shall adopt any such child or children or take same away from any such premises or institution without the written consent of the Health Commissioner.

Sec. 857. Record to be Kept by Board.—The hospital and Health Board shall keep a record of all places and institutions specified in this article and they shall be subject to visitation by the officers of the board and to the provisions of the Charter and ordinances of the city, prescribing the powers and duties of the board. And the board shall keep a complete record of all permits and written consents issued by said board and the Health Commissioner under this article

Sec. 858. Institution Unsanitary—Revocation of Permit.—In case any of the institutions mentioned in this ordinance are conducted in an unsanitary, unhealthful, cruel or neglectful manner, in addition to the fine and penalty herein provided for, the Municipal Court may, on conviction of running and managing any such institution in the manner aforesaid, or in violation of any of the terms of this article revoke the permit hereinbefore provided for, and after such revocation it shall be unlawful for any such person, firm, society, association or corporation to conduct any institution hereinbefore provided for.

Sec. 859. Penalty.—Any person, firm, society, association or corporation failing, neglecting or refusing to comply with any of the terms or provisions of the preceding sections of this article, shall be fined not less than twenty-five nor more than five hundred dollars, and each day that any such institution shall run without first having filed said written notice with said board shall constitute a separate offense under this article, and in addition to said fine the court may revoke the license as provided in Section 858 hereof.

Sec. 860. Dumping Manure, Garbage, Etc., Into Streets, Etc., Adjoining City Limits—Penalty.—No person, firm or corporation shall deposit, place, dump, pour or drain into any street, avenue or other public highway or place adjoining the present or any future limits of Kansas City, Missouri, any manure, garbage, refuse, sewage, filth, or any substance whatsoever that emits any foul, noxious or disagreeable odor, or that is in anywise detrimental to the health of the inhabitants in the vicinity thereof. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one dollar (\$1.00) nor more than five hundred dollars (\$500).

Sec. 861. Distribution of Drugs and Medicine—Permit—Penalty.—No person shall give away or distribute to the public or scatter or throw upon any yard or premises or leave for free distribution upon any street, alley, sidewalk or public place any drugs, proprietary medicine or other medicine, in whatever form the same may be put up, without first obtaining a permit signed by the Health Commissioner.

Before the issuance of said permit, the Health Commissioner shall require the person applying therefor to file a written application setting forth the ingredients of the preparation so to be distributed or given away and must satisfy the Health Commissioner that the distribution thereof will not be likely to endanger the health of the public. Said applicant shall also before receiving said permit enter into a bond to Kansas City in the sum of two thousand dollars (\$2,000.00) conditioned that he will pay all damages caused to any person who may be injured by the use of the article or substance so distributed. Said bond shall be in such form as may be approved by the City Counselor and it shall be signed by two or more sureties approved by the Health Commissioner, and it shall be kept on file in the office of the Hospital and Health Board. Any person may

sue on said bond in his own name for any damage caused to him by the use of any substance or article so distributed.

Any person guilty of a violation of any provision of this section shall, upon conviction thereof, be adjudged guilty of a misdemeanor and shall be fined not less than one dollar (\$1.00) nor more than fifty dollars (\$50.00) for each offense.

CHAPTER 16.

TAXES.

Section.
862. Notice of Sale for Delinquent Taxes.

Section.
863. Certificate of Publisher of Newspaper.
864. Refunding of Taxes.

Charter, Art. V, Sec. 47.

Sec. 862. Notice of Sale for Delinquent Taxes.—The certificate of the publication of the notice of the sale of real property for delinquent taxes, which the city treasurer is required to obtain by section twenty-seven, of article V, of the Charter of Kansas City, shall be verified by the party making the same and be substantially in the following form, to-wit:

I, printer, publisher or manager (as the case may be) of the a newspaper of general circulation published in Kansas City, Missouri, do hereby certify that the notice of the sale of real property for delinquent taxes hereto attached, was published in the daily edition of said paper on the day of A. D., and for the period of ten days immediately following such publication. Another notice also hereto attached stating the day and date upon which such publication was made, was inserted in large type at the head of one of the columns of said newspaper in the said edition, on the local page thereof, and in each and every issue thereof, to-wit; in the issue of the days of A. D., and on the days of A. D.

Witness my hand this day of A. D.

Sec. 863. Certificate of Publisher of Newspaper.—The certificate of the publication of the list of unredeemed real property required by section thirty-seven of article V. of the City Charter, shall be in the following form, and be verified by the party making the same:

I, printer, publisher or manager (as the case may be), of thea newspaper published in Kansas City, Missouri, do hereby certify that the list of unredeemed real property to which this certificate is attached, was published in said newspaper daily for twenty consecutive days, Sunday excepted, as follows, to-wit: on the day of, A. D., and on the days of, A. D.

Witness my hand this day of, A. D.

Sec. 864. Refunding of Taxes.—The City Counsellor, City Treasurer and City Comptroller are hereby authorized and empowered to examine, pass upon and adjust all claims against Kansas City for or on account of any city tax upon any real or personal property, paid to the City Treasurer twice during and for the same year; and upon proof being made to them by the production of the receipts of the City Treasurer that any such tax has been twice paid, recommend to the Common Council that the amount of original tax so paid by mistake be refunded.

CHAPTER 17.

VEHICLES.

Article.

- I. Hacks and Cabs.
- II. Automobiles and Bicycles.

Article.

- III. Express and Job Wagons.
- IV. Miscellaneous.

ARTICLE I.

HACKS AND CABS.

Section.

- 865. Hack Stands.
- 866. Lamps.
- 867. Hack Fare.
- 868. Trunk Charges.

Section.

- 869. Intoxication of Drivers.
- 870. Refusing Passengers.
- 871. Posting Rates.

Charter, Art. III, Sec. 1, Cl. 5. Sec. 1, Cl. 11.

Sec. 865. **Hack Stands.**—That portion of the east or south side of Union Avenue from the west end of the baggage room at the Union Depot to the east line of Santa Fe Street, excepting the spaces adjoining the Union Depot, now arranged and used for driveways and foot-crossings, and excepting spaces necessary for ingress and egress to the Union Depot, is hereby designated a stand for hacks, cabs, hansoms, sleighs and other like vehicles of conveyance. *Provided*, That but one row of hacks shall stand along the curb on Union Avenue in front of the Union Depot; and *provided*, that between the hours of nine o'clock p. m. and six o'clock a. m., such vehicles may stand on any business street of the city at any place where the occupant or owner of the adjoining property does not object.

Sec. 866. **Lamps.**—No person, owning or driving a public hack or carriage, except call hacks, shall be permitted to use the public streets or thoroughfares of this city, for the purpose of carrying passengers in such hack or carriage, without having the same provided with lamps, attached on either side, near the front thereof,

which lamps shall both be kept lighted when such hack or carriage is run in the night time, so as to show the number on such hack or carriage, which number shall be placed or painted upon such lamps, and be not less than one inch in length and breadth.

Sec. 867. **Hack Fare.**—No person owning, driving or managing any hack, cab, hansom or other like vehicle of conveyance shall charge to exceed the following rates: For each passenger, with usual baggage other than trunk, conveyed between points within that portion of the city bounded by the Missouri River on the north, Prospect Avenue on the east, Twenty-ninth Street on the south, and the State Line on the west, fifty cents. For each passenger, with usual baggage, excepting trunk, conveyed between points one within and one without that portion of the city included within the above described boundaries, twenty-five cents additional for each one-half mile east of Prospect Avenue or south of Twenty-ninth Street. For use of cab, hack, hansom or other like vehicle for one day, ten dollars; for use of the same by the hour, for first hour, two dollars; for each succeeding hour, one dollar.

Sec. 868. **Trunk Charges.**—For transfer of trunks, not more than one-half the rate for passengers shall be charged; *provided*, that double the rates herein fixed may be charged from twelve o'clock midnight to six o'clock in the morning for conveyance of passengers and trunks.

Sec. 869. **Intoxication of Drivers.**—Any driver of any licensed hack, omnibus, sleigh or other public vehicle, used for carrying passengers, who shall be found in a state of intoxication while on duty as such driver shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than five hundred dollars.

Sec. 870. **Refusing Passengers.**—Persons owning or driving vehicles used for carrying passengers shall not refuse to carry any passenger between points within the limits of this city, except such passengers who refuse to pay the rate fixed by ordinance for such service. No owner or driver shall deceive any passenger who may ride in any such public vehicle, or who may desire to ride in such vehicle, as to his destination or the price authorized by ordinance to be charged for such services, or shall convey such passenger, or cause him to be conveyed, to a place other than as directed by him.

Sec. 871. Posting Rates.—Persons owning or driving hacks, carriages, omnibuses or other public vehicles, used in carrying passengers shall, at all times, keep posted, in a conspicuous place in such vehicles, a card on which shall be printed in plain letters, the amount fixed by ordinance for carrying passengers as herein provided.

ARTICLE II.

AUTOMOBILES AND BICYCLES.

Section.

- 872. Rate of Speed.
- 873. Lamps and Numbers.
- 874. Frightening Horses.
- 875. Rate of Speed at Crossings—
Loud Noises.
- 876. Must Keep to Right of Street.

Section.

- 877. Meddling With, Stealing, Taking
or Using.
- 878. Penalty.
- 879. Automobiles, Etc., on Cliff Drive.
- 880. Recommended by Board of Park
Commissioners.

Charter, Art. III, Sec. 1, Cl. 4.

Sec. 872. Rate of Speed.—No person shall ride, drive, run or cause to be ridden, driven or run any bicycle, tricycle, tandem bicycle, automobile, locomobile, horseless carriage or any other vehicle propelled by foot, steam, gas, gasoline, or electricity upon or along any of the public streets, avenues, boulevards, highways or other public places of this city, within the following described districts at a greater rate of speed than hereinbelow defined.

First: Within the district bounded by the Missouri River on the north, Troost Avenue on the east, Eighteenth Street on the south and the State Line on the west, the rate of speed shall not exceed 8 miles per hour; and on or along all boulevards and parkways within the entire city the rate of speed shall not exceed twelve (12) miles per hour.

Second: Elsewhere within the city limits and outside of the districts hereinbefore defined except along all boulevards and parkways the rate of speed shall not exceed twelve (12) miles per hour; or carelessly or negligently ride, drive or cause to be ridden or driven any such vehicle in any such manner as to come in collision with or strike any other object or person upon the street.

Sec. 873. Lamps and Numbers.—No person shall ride or drive any bicycle, tricycle, or tandem bicycle as aforesaid, in the night without having attached to the front of the same a lighted lamp that

can be distinctly seen at a distance of at least one hundred feet, and no person shall ride, drive or run, or cause the same to be done, any automobile, locomobile or horseless carriage as aforesaid, in the night, without having fixed conspicuously on each side thereof, a lighted lamp with plain glass front and clearly visible at a distance of at least fifty (50) feet, and also one lighted lamp firmly attached to the rear of said vehicle so adjusted as to clearly illuminate the registered number of such vehicle so as it can be read at a distance of fifty (50) feet. No person owning or having control or charge of any automobile, locomobile or horseless carriage shall be permitted to ride or drive the same upon any public street, or thoroughfare of this city, unless such vehicle has been registered in the owner's name with the City License Inspector, and has said registered number with the letters "K. C." below the number painted or printed in white upon black background in legible figures at least three (3) inches in length upon the rear of the bed of such vehicle, or upon leather, or other durable substance, and securely attached to the rear of the bed or body of such vehicle, in such a manner as to be at all times visible.

Sec. 874. Frightening Horses.—Every operator whenever upon any public street, boulevard, parkway or highway and approaching any vehicle drawn by horse or horses, or any horse upon which any person is riding, shall operate, manage or control such automobile, locomobile, or horseless carriage in such a manner as to exercise every reasonable precaution to prevent frightening of any such horse or horses, and to insure the safety and protection of any such person riding or driving the same. And if such horse or horses appear frightened, said operator shall reduce the speed of his vehicle and if necessary to prevent an accident, he shall not proceed further toward such animal, unless such movement be necessary to avoid accident or injury, until such animal appears to be under the control of its rider or driver. Upon all streets or highways, except those included in the district first described in this article the operator must give notice of his approach to any vehicle, by ringing a bell or sounding a horn.

Sec. 875. Rate of Speed at Crossings—Loud Noises.—Upon approaching a crossing or intersecting ways and also upon traversing the crossing or intersection, the person in control of an automobile or horseless carriage shall run it at a rate of speed less than that above specified and not greater than is reasonable and proper, having regard to the traffic and use of the intersecting ways. And no person shall run or drive any vehicle upon or over the public streets, which has

an unusually loud exhaust or otherwise makes an unusually loud noise.

Sec. 876. Must Keep to Right Side of Street.—Any person driving or running any automobile or horseless carriage along said street shall keep to the right hand side of the street and shall turn to the left in passing around any person or conveyance overtaken going in the same direction.

Sec. 877. Meddling With, Stealing, Taking or Using.—No person, not owning or being in charge of an automobile or motor car, shall meddle, or in any way handle any automobile or motor car left on the streets, alleys, avenues, parkways, boulevards or highways of Kansas City, and no person shall steal, take or drive away from its place upon any public place, or in any stable, garage or shelter, and use without the consent or order of the owner thereof, any automobile or other vehicle not his own property.

Sec. 878. Penalty.—Any person violating, neglecting or refusing to comply with any of the provisions of the foregoing sections of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) and not less than ten dollars (\$10.00) for each and every offense.

Sec. 879. Automobiles, Etc., on Cliff Drive—Penalty.—No person shall ride, drive or cause to be ridden, driven or run any automobile, locomobile, horseless carriage or other vehicle propelled by steam, gas, gasoline or electricity upon or along or in North Terrace Park in Kansas City, or the part known as "Cliff Drive," on Sunday of each week. The vehicles in this section described shall be admitted to said Cliff Drive in North Terrace Park between the hours of six o'clock a. m. and twelve o'clock p. m. The rate of speed of such vehicles when so operated on Cliff Drive as above provided shall not exceed ten (10) miles per hour. All other rules and regulations of Kansas City applying to automobiles and other vehicles of like character shall apply when not inconsistent herewith to such vehicles when so operated as above provided on Cliff Drive in North Terrace Park. Any person who shall violate any of the foregoing provisions, rules or regulations shall be guilty of a misdemeanor, and upon conviction thereof shall be pun-

ished by a fine of not less than ten dollars (\$10.00) nor more than five hundred (\$500.00) dollars.

Sec. 880. Recommended by Board of Park Commissioners.

—The Common Council finds and declares that the action of the Common Council herein has been recommended by the Board of Park Commissioners of Kansas City, Missouri, as provided by law, and that said board has adopted said rules and regulations and has recommended to the Common Council the establishment and enforcement of the same by ordinance as herein provided.

ARTICLE III.

EXPRESS AND JOB WAGONS.

Section.

881. Stands.

882. Charges.

Section.

883. Hay and Wood Wagons.

Charter, Art. III, Sec. 1, Cl. 5.

Sec. 881. Stands.—Express wagons, job wagons, drays, carts and all vehicles used for hauling goods, wares, merchandise or other property for hire, may be kept, when awaiting patronage, at the places herein designated, as follows: On Baltimore Avenue, between the alley next south of Ninth and Eleventh Streets; on Fifteenth Street, between Main Street and Grand Avenue; on the east side of Grand Avenue, between Seventh and Eighth Streets; the east side of Tracy Avenue, from Seventeenth to Eighteenth Streets; the south side of St. Louis Avenue, from the point of intersection of the south line of said St. Louis Avenue with the north line of Union Avenue to a point two hundred feet west of said point of intersection; the east side of Oak Street between Missouri Avenue and Independence Avenue; Grand Avenue, between Ninth and Eleventh Streets, in front of vacant property; Fourth Street, between Grand Avenue and Oak Street; *provided*, that the persons in charge of said vehicles, while waiting at any of the stands herein designated, shall not assemble in groups along the street, but shall remain by the side of or in their respective vehicles while remaining at such stand.

Sec. 882. Charges.—Persons owning or driving one-horse or mule job wagons, carts or drays, are allowed to charge for carry-

ing and unloading any load of baggage, goods, wares or merchandise, a distance of one mile or less, forty cents, and twenty cents for each additional mile or fraction thereof.

Persons owning or driving two-horse or mule job wagons, carts, or drays, are allowed to charge for each load transported and unloaded in this city, seventy-five cents for the first mile, and twenty-five cents for each additional mile or fraction thereof.

Sec. 883. Hay and Wood Wagons.—Hereafter no hay or wood wagons, loaded and awaiting a buyer, shall stand in any portion of the city except on Third Street, between Wyandotte Street and Broadway, and on the west side of Walnut Street, between Fifteenth Street and Seventeenth Street.

ARTICLE IV.

MISCELLANEOUS.

Section.

884. Standing at Certain Places Forbidden.

885. Standing in Front of Doorways.

886. Soliciting Patronage.

Section.

887. Excessive Charges.

888. Ambulances—Penalty.

889. Penalty.

Sec. 884. Standing at Certain Places Forbidden.—Every owner, driver or person in charge of any of the vehicles mentioned in this chapter shall occupy, with such vehicle, the stands designated in this chapter as stands for the same; and it shall be unlawful for any such owner, driver or person in charge of any of the aforesaid vehicles, when not employed, to occupy with such vehicle any stand or place in or upon any street, avenue, alley or other public place other than as designated by this chapter as a stand for such vehicle.

Sec. 885. Standing in Front of Doorways.—No owner, driver or person in charge of any sleigh, hack, carriage or other vehicle shall allow any such vehicle, sleigh, hack or carriage, or any part thereof, or any animal harnessed thereto, to stand or be, for more than five minutes at any one time, in front of any doorway or entrance, or within thirty feet each way of any doorway or entrance, to any public hall or other place in which there is being had or held any public meeting, assembly, public or private ball, or any other public or private entertainment.

Sec. 886. **Soliciting Patronage.**—It shall be unlawful for any owner, driver or person in charge of any public hack or carriage, sleigh, sled, express wagon, job wagon, wood wagon, cart or dray, or any person, while soliciting passengers or baggage for such public hack, carriage, sleigh or sled, or soliciting employment for such express wagon, cart, dray or job wagon, or customers for the sale of wood, to cry out, in a loud, boisterous or unusual manner, or use or utter any profane or obscene language, or push or take hold of, jostle or otherwise annoy, vex, harass, disturb or interfere with any person.

Sec. 887. **Excessive Charges.**—Any owner or driver of any vehicle, used in conveying passengers, trunks, goods, wares or merchandise, who shall ask or charge, or attempt to charge, or cause or allow to be asked or charged for such service, a rate higher than that fixed by this chapter; and any person who shall hire any such vehicle for the purpose of riding therein or transporting any goods, wares or merchandise, and shall refuse to pay the rate therefor, as fixed herein, shall be deemed guilty of a misdemeanor.

Sec. 888. **Ambulances—Penalty.**—All ambulances and vehicles belonging to or in use by the Hospital and Health Department, or any incorporated hospital recognized by the Hospital and Health Department as being regular, when conveying any patient or injured person to any hospital in this city, or when proceeding to the scene of any accident where any person or persons may have been injured, and the vehicle carrying any physician or surgeon when answering calls for their professional services, shall have the right of way in the streets, avenues and thoroughfares of this city as against all processions, persons, vehicles or animals, and shall have the right as soon as possible to cross through any such procession, or over any bridge. No ambulance or other vehicle provided for in this section shall be permitted to exercise the privileges therein granted unless the driver or person in charge thereof shall have a permit and wear a suitable badge issued as hereinafter provided. Upon written application to the Hospital and Health Board said board may issue to any person entitled thereto, as provided in this section, a permit and a badge, which badge shall be worn in a conspicuous place by the person to whom issued, and which is not transfer-

able, which permit and badge shall entitle the person to whom issued to the privileges granted under this section, provided that no such permit or badge shall be issued to any physician or surgeon who is not regularly practicing his profession in this city and who is not certified by the state board of health as being a regular practicing physician or surgeon and duly registered as such. Any permit issued hereunder may be revoked by the Hospital and Health Board. Any person driving or having in charge any ambulance or other vehicle and violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum of not less than one dollar, and not exceeding twenty-five dollars for each and every offense.

Sec. 889. **Penalty.**—Any person violating, failing, neglecting or refusing to comply with any provision, regulation, or requirement of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, where no other special penalty is provided, be fined not less than one dollar nor more than one hundred dollars.

CHAPTER 18.

WATER WORKS.

Section.

- 890. Water Works Fund.
- 891. Water Rates by Meter Measurement.
- 892. Water Rates, Residences, Buildings, Premises, Etc.
- 893. Water Rates—Domestic Uses.
- 894. Sales of Water From Flow Line—Rates.
- 895. Rates for Charitable Institutions.
- 896. Water for Building Purposes.
- 897. Cost of Water for Fire Protection.
- 898. Water Rent—Payable When.
- 899. Sprinkling.
- 900. Hydraulic Elevators.
- 901. Habitual Use of Free Water.
- 902. Return of Deposit.
- 903. Unexpired Licenses, Rebate.
- 904. Receipts for Disbursements.
- 905. Withholding License.
- 906. Requiring Additional License.
- 907. Meters, Bonds, Deposits, Etc.
- 908. Placing Meters.
- 909. Cost of Meters and Fixtures.
- 910. Meters—Duty of Superintendent.
- 911. Inspection of Meters—Charge for.
- 912. Repair, Resetting, Etc., of Meters.
- 913. Defective Meter—Monthly Bill.

Section.

- 914. Meters at Public Institutions, Parks, Etc.
- 915. Taking Water From Fountains, Etc.
- 916. Cutting Off Water.
- 917. Leaks and Defects in Plumbing.
- 918. Access to Premises.
- 919. Enclosing Water Using Premises.
- 920. Inspection of Adjoining Premises.
- 921. Stop Boxes.
- 922. Using Hydrants of Others.
- 923. Unlawful Use of Water—Penalty.
- 924. Wasting Water.
- 925. Obstructing Water Works—Penalty.
- 926. Unauthorized Use of Water—Penalty.
- 927. Using Water Without License—Interfering With Apparatus—Turning Off or on Water—Penalty.
- 928. Sprinkling Hours.
- 929. Badges of Water Department Employees.
- 930. Duty of Policemen.
- 931. Penalty.

Charter, Art. XI, Sec. 9.

Sec. 890. **Water Works Fund.**—There shall be levied and collected by the proper city officials, an annual tax, which, together with all the other sums applicable to the payment of the principal and interest of the bonds hereinafter mentioned, shall be sufficient to pay the interest as it falls due, and also to constitute a sinking fund for the payment of principal at maturity. There is hereby created a fund for the Water Works Department, which shall be kept separate and apart from all other city funds. All income revenue and receipts of any and all kinds derived from

the operation and maintenance of the water works by the city, shall be credited to and constitute a general fund for the water Works Department. All salaries of all officers and employees, and all running expenses of said department, and the cost of all repairs, enlargements and extensions of the water works by the city, and all interest on the bonds dated July 1, 1895, issued by Kansas City, for the purpose of paying off the judgment in the United States Circuit Court, in the controversy between the National Water Works Company and Kansas City, shall be paid out of said fund. There is also hereby created and constituted, a sinking fund in and for the Department of Water Works; which said sinking fund shall be invested, and kept invested, and be managed in the same manner as the other sinking funds of the city, as provided by the City Charter and the Constitution and Laws of Missouri, and which sinking fund, together with the interest, income and increase thereof, shall stand pledged inviolate for the payment at maturity of the principal of said bonds so issued by the city for the payment of said judgment. After paying salaries of officers and employees, running expenses and costs of repairs, enlargements and extensions in, of and to said Department of Water Works, and the interest on said bonds, as above provided, then all of the surplus revenue and income derived from the water works, shall be transferred and credited by the Comptroller and Treasurer, from the general water works fund to the sinking fund aforesaid at such times as the comptroller may deem proper, upon a resolution of the Common Council. The interest on all uninvested cash and on all bonds and other securities belonging to the said sinking fund and all interest on daily balances on any money which has, or may be, derived from the revenue or income of said water works, shall be transferred and credited by the Comptroller and Treasurer to said sinking fund monthly, and at the end of each month, and at the end of each of the fiscal years.

Sec. 891. Water Rates by Meter Measurement.—The Assessor and Collector of Water Rates is hereby authorized and directed to enforce monthly meter rates for the use of water from the Kansas City Water Works by meter measurement; minimum rate being 70 cents for the use of 2,800 and less gallons of water per month under the following sliding scale schedule:

| For | Gallons. | Rate. |
|-----|---------------|--------|
| 0 | to 2,800..... | \$.70 |

WATER WORKS.

Secs. 891-892.

| | | |
|------|----------------|------|
| 1st | 10,000..... | .25 |
| 2d | 10,000..... | 18½ |
| 3d | 10,000..... | .18 |
| 4th | 10,000..... | .16 |
| 5th | 10,000..... | .15 |
| 2d | 50,000..... | .14 |
| 2d | 100,000..... | .11 |
| 3d | 100,000..... | .10 |
| 4th | 100,000..... | .09½ |
| 5th | 100,000..... | .09 |
| Next | 1,000,000..... | .08½ |
| Next | 1,000,000..... | .08 |
| Next | 1,000,000..... | .07½ |

For each additional 1,000,000 gallons or fraction thereof, seven (7) cents per 1,000 gallons.

Sec. 892. Water Rates, Residences, Buildings, Premises, Etc.—The following rates per annum for the use of water from the Water Works of Kansas City, Missouri, for residences and other buildings and premises are hereby established, to-wit:

| | |
|--|--------------------|
| Ale Cellar | \$ 9.75 to \$35.20 |
| Bakery, each barrel used daily..... | 3.90 |
| Bar room | 9.75 to 35.20 |
| Barber shop, first chair..... | 4.90 |
| Each additional chair..... | 2.55 |
| Bath, private residence, each tub, cold water only | 3.15 |
| Bath, private residence, each tub, cold and hot water | 3.90 |
| Bath, boarding or lodging house, each tub, cold water only..... | 4.70 |
| Bath, boarding or lodging house, each tub, cold and hot water..... | 5.90 |
| Bath, hotel, cold water only..... | 6.25 |
| Bath, hotel, cold and hot water..... | 7.80 |
| Bath, public | 9.40 |
| Brewery, metered | |
| Beer house | 9.75 to 35.20 |
| Blacksmith shop, per forge..... | 2.30 |
| Book Bindery, per hand, \$1.55, minimum.... | 11.75 |

| | | |
|--|----------|-------|
| Brick work, meter, or per 1,000 kiln count... | | .08½ |
| Brick yard, each table or gang for season, meter or | | 15.20 |
| Carriage shop, each hand..... | | 1.55 |
| Church | 3.90 to | 7.80 |
| Cigar manufactory, per hand..... | | 1.55 |
| or minimum | | 11.75 |
| Coffee saloon. | 9.75 to | 35.20 |
| Confectionery | 11.75 to | 78.20 |
| Concrete, per cubic yard..... | | .08½ |
| Concrete, per cubic yard, street paving..... | | .06¼ |
| Cow | | 1.55 |
| Distillery, metered | | |
| Dyeing and scouring, meter or..... | 11.75 to | 78.20 |
| Fountain, not over 5 hours daily, 7 months per year, each 1-16 jet..... | | 11.75 |
| Hall, meter or..... | 5.50 to | 7.80 |
| Hat manufactory, per hand..... | | 1.55 |
| Horse, or mule, per head..... | | 1.55 |
| Hose, private stable, not less than..... | | 3.90 |
| Hose, livery stable, meter or..... | 7.35 to | 39.10 |
| Hose, sprinkling streets, lawns, including washing fronts and sidewalks, per lineal foot, up to 50 feet..... | | .15 |
| Each additional foot..... | | .08 |
| Corner lots, if sprinkled, to be charged same as front. Hose not allowed for any purpose except where the whole premises are rated. | | |
| Ice cream saloon..... | 11.75 to | 78.20 |
| Laundry, meter or..... | 11.75 to | 39.10 |
| Machine shops, meter or per horse power.... | | 3.90 |
| Office or bank..... | 3.90 to | 15.65 |
| Photographing | | 19.55 |
| Plastering, per square yard..... | | .00½ |
| Printing office, per hand..... | | 1.55 |
| Or minimum | | 7.80 |
| Restaurant | 18.75 to | 78.20 |
| Saloons | 19.55 to | 35.20 |
| Schools, meter | | |
| Sprinkling carts, per cart, per month..... | | 20.25 |

WATER WORKS.

Sec. 892.

| | | |
|--|----------|-------|
| Stable, private, not including use of hose, per head | | 1.55 |
| Stable, livery and sale, meter or per stall..... | | 1.55 |
| Steam boiler, meter or per horse power..... | | 3.90 |
| Steam Heating, private house..... | | 3.90 |
| Steam heating, large buildings..... | 7.80 to | 15.65 |
| Stone work, per perch, 16½ cubic feet..... | | .02½ |
| Stores and shops. | 3.90 to | 15.65 |
| Tobacco manufactories, meter or per hand... | | 1.55 |
| Or minimum rate..... | | 7.80 |
| Urinal basins, private..... | | 3.90 |
| Urinal basins, public. | | 7.80 |
| Vehicles, spring, no hose attachments..... | | 1.55 |
| Water closet, private residence..... | | 3.70 |
| Water closets, boarding and lodging houses.. | | 5.05 |
| Water closets, stores and offices, each seat.... | | 4.35 |
| Water closets, hotels and public places, each seat | | 7.35 |
| Wine cellars, meter rates or..... | 9.75 to | 35.20 |
| Artificial stone manufacturing work, meter... | | |
| Bottle washer, meter..... | | |
| Circus and pony show, per day..... | 5.00 to | 15.00 |
| Drug stores, per year..... | 10.00 to | 20.00 |
| Dye office (only), per year..... | | 5.10 |
| Beer pumps, meter or per year..... | | 15.00 |
| Commission stores, per year..... | | 10.25 |
| Church baptistry, per year..... | 5.00 to | 10.00 |
| Cuspidors, dental office, per year..... | 12.00 to | 15.00 |
| Dress making, per year..... | | 5.10 |
| Gasoline or gas engine tank, per year..... | | 4.25 |
| Glass washers, per year..... | 5.00 to | 10.00 |
| Grocery sundries, Mfg., per year..... | 15.00 to | 25.00 |
| Hair dressing parlors, per year..... | | 4.90 |
| Implement, wholesale, per year..... | | 10.25 |
| Jewelry, wholesale, per year..... | | 10.25 |
| Jewelry, per year..... | | 4.90 |
| Kalsomine office and works, per year..... | 7.05 to | 11.75 |
| Laundry, hand, public, per year..... | | 25.00 |
| Laundry, steam, meter..... | | |
| Lunch room (see restaurant)..... | | |
| Liquor dealer, per year..... | 15.00 to | 25.00 |

| | | |
|--|----------|-------|
| Meat market, per year..... | | 4.90 |
| Milk depot, per year..... | 15.00 to | 25.00 |
| Mineral water, Mfg., meter or per year..... | 15.00 to | 25.00 |
| Motor fans, meter | | |
| Motor organs, meter..... | | |
| Pool hall (three tables), per year..... | | 4.90 |
| Pool hall (more than three tables), per year each additional table | | .90 |
| Plumbing shop, per year..... | | 7.05 |
| Plaster works, per year..... | 10.00 to | 25.00 |
| Pottery works, per year..... | 10.00 to | 25.00 |
| Schools, meter, or per year, per pupil..... | | .05 |
| Soda fountain, per year..... | 5.00 to | 10.00 |
| Undertakers, per year..... | | 9.45 |
| Vinegar works, meter | | |
| Filling cisterns, per cistern..... | | 4.00 |
| Sprinkling freshly laid sod, per foot..... | | .50 |
| Water closets for builders and contractors, per month | 1.00 to | 2.00 |
| Sprinkling sewer trenches, per foot..... | .01 to | .02 |
| Flushing sewers, per hour..... | | 5.00 |
| Flushing water closets, per hour..... | | 5.00 |
| Syphoning cellars, per hour (as per size of jet) | 1.00 to | 5.00 |
| Planting trees, per tree..... | | .02½ |
| Grouting, per square yard..... | | .00⅛ |
| Settling dirt in porches and in and around foundations, each | .50 to | 5.00 |
| Filling vats, pools, etc., each..... | 1.00 to | 5.00 |
| Cut stone work, stone veneering, wetting macadam, per square yard (Boulevard finish) | | .00½ |
| Cut stone work, stone veneering, wetting ma- cadam, per square yard (common finish) .. | | .00¼ |
| Fire proof paint, per building..... | 1.00 to | 5.00 |
| Whitewashing, per building..... | 1.00 to | 5.00 |
| Kalsomining, per building. | 1.00 to | 5.00 |
| Setting mantels and tiling bath and hall rooms, each 10 cents or annual rate of..... | 10.00 to | 20.00 |
| Water power washing motor machine, meter or | 5.00 to | 25.00 |

Sec. 893. Water Rates—Domestic Uses.

| Number Rooms. | Private Residences. | Boarding or Lodging Houses. |
|------------------------------------|------------------------|--------------------------------|
| 1..... | \$ 2.75 | \$ |
| 2..... | 3.45 | |
| 3..... | 3.90 | 4.60 |
| 4..... | 4.35 | 5.75 |
| 5..... | 4.60 | 6.65 |
| 6..... | 5.05 | 7.60 |
| 7..... | 5.75 | 8.50 |
| 8..... | 6.20 | 9.65 |
| 9..... | 6.90 | 10.60 |
| 10..... | 7.35 | 11.50 |
| 11..... | 8.05 | 12.40 |
| 12..... | 8.50 | 13.35 |
| 13..... | 9.20 | 14.50 |
| 14..... | 9.65 | 15.40 |
| 15..... | 10.10 | 16.35 |
| Each additional room..... | .45 | .90 |
| Hotels, by meter, or per room..... | | .90 |

These rates shall apply to all rooms, including rooms in basements, occupied as living rooms and kitchen.

Attic rooms and small rooms over halls, not used as living rooms, shall be charged for at the rate of twenty-five cents each, per annum.

No charge shall be made for bath rooms occupied for bath, linen closets or cellars.

Boarding or lodging houses, accommodating less than three boarders or lodgers, shall be assessed only private residence rates.

Boarding or lodging houses, accommodating more than three boarders and lodgers shall be assessed boarding or lodging house rates. Houses occupied by two families shall be charged boarding or lodging house rates.

A charge of 20 per cent additional for each family in all houses occupied by more than two families. If modern, to apply on bath and closets.

Boarding and lodging houses within the meaning of this chapter are defined to be houses advertised by placards or otherwise as boarding or lodging houses or where the furnishing of board or lodging is pursued as a business.

Sec. 894. Sale of Water From Flow Line—Rates.—The Assessor and Collector of Water Rates is authorized and directed to sell water from the flow line or lines running from Quindaro Station to Turkey Creek Station to consumers using not less than ten million (10,000,000) gallons of water monthly, at the rate of \$40 per million gallons meter measurement, bills payable monthly as provided by ordinance. Provided, however, that no extra elevation of water along the low pressure lines shall be maintained on account of consumers using water under the provisions of this ordinance.

Consumers taking water from said low pressure lines, shall furnish approved water meters of adequate capacity to measure the water used, and the proper and necessary connections with the water mains shall be made at the expense of the consumer, in accord with the orders and directions of the Board of Fire and Water Commissioners.

Sec. 895. Rates for Charitable Institutions.—Hospitals, orphan asylums and charitable institutions using meters shall be assessed and pay for the water so used, one-half the regular meter rates.

Sec. 896. Water for Building Purposes.—The Assessor and Collector of Water Rates shall have authority to issue permits for the use of water for building and construction purposes. He shall adopt such means, by inspection and otherwise, as may prove most efficient in finding the number of brick, perches of stone, cubic yards of concrete, square yards of plastering and amount of work of any other character for which water will be used, and collect the rates as provided by ordinance.

Sec. 897. Cost of Water for Fire Protection.—No charge shall be made for any stand-pipe or automatic sprinkling fire protection system, or other like appliances connected with any building to be used exclusively for fire protection, when the owner or occupier of such building is a consumer of water from the water works to the amount of fifty dollars per year or more, and such pipe is provided with a suitable valve where the pipe enters the building and is properly sealed in accordance with the rules prescribed by the Board of Fire and Water Commissioners. In all such cases where there is a stand-pipe or other fire protection system con-

nected with any building, there shall be a shut-off valve on the service pipe four feet from the main. When the owner or occupier is not a consumer of water from the water works to the amount of fifty dollars per year, the charge for fire protection shall be sixty dollars per year for each connection with the water main.

Sec. 898. Water Rent—Payable When.—All bills for water taken under what is known as the flat or annual rate schedule of Kansas City, Missouri, shall be payable in advance in periods of three months, and the Assessor and Collector of Water Rates may, in his discretion, so arrange such periods as to best conform with the convenience of consumers and subserve economy and efficiency in collecting said bills. Any consumer may pay for any multiple of three months in advance. All annual rate bills shall become delinquent at the end of ten days after the same become due and payable and the water supply may be shut off. All meter bills shall be rendered as near as practicable in periods of thirty days; shall be payable within 10 days after they become due; shall become delinquent after the tenth day, and the water supply may be cut off and not turned on again for the person or persons in default either for the same premises or any other premises until such delinquent bills are paid.

Sec. 899. Sprinkling.—The sprinkling privilege is an integral part of the annual water rate, and the Assessor and Collector of Water Rates shall not allow a rebate to any consumer by reason of the detachment of sprinkling fixtures after the term of the contract has commenced. The Assessor and Collector of Water Rates shall re-rate premises in accordance with the schedule of water rates provided by ordinance, and all collections shall be made from the date of the changes on premises necessitating the re-rate,

Sec. 900. Hydraulic Elevators.—Hydraulic elevators and indicators must be kept in repair and proper working condition at the expense of the premises so supplied. All elevators connected to the water supply hereafter must be furnished with rotary meters to register the quantity of water used, set at the expense of the owner or occupant of the building. The use of indicators heretofore put in must be discontinued as soon as they fail to register properly. The person operating the elevator

will be notified by the Assessor and Collector of Water Rates, and allowed a reasonable time to have the meter set. If this is not done the supply shall be shut off.

Sec. 901. Habitual Use of Free Water.—Persons not paying water rates and habitually using water from city fountains and watering troughs for domestic purposes and watering live stock shall be assessed the water rate applicable to the premises inhabited by such consumer.

Sec. 902. Return of Deposit.—Whenever a consumer of water, using a meter and having a deposit with the Assessor and Collector of Water Rates, shall for any reason cease using water he shall upon complying with the rules of the water department and the City Ordinances, be entitled to have his deposit returned to him by the Assessor and Collector of Water Rates, less any charges due against such deposit. He shall surrender his receipt for such deposit, which shall be canceled by the Assessor and Collector of Water Rates, and be delivered to the City Comptroller.

Sec. 903. Unexpired Licenses, Rebate.—If any consumer shall remove from the premises for which his license was issued, before the expiration of the same, or such premises shall be destroyed by fire, he shall notify the Assessor and Collector of Water Rates thereof, who shall cause the water to be shut off the premises, thereupon the Assessor and Collector shall compute the unconsumed value of the license, which shall be in proportion that the unexpired term of his license bears to the full term for which the license was issued, and such amount shall, on surrendering of his license, be allowed as a payment on a subsequent license, or at his option, shall be returned to the consumer holding said license. Said license shall be canceled by the Assessor and Collector and delivered to the City Comptroller with an endorsement thereon, showing date of cancellation.

Sec. 904. Receipts for Disbursements.—For all moneys disbursed on account of canceled water licenses, and for all moneys disbursed on account of returned water meter deposits, the Assessor and Collector of Water Rates shall take triplicate receipts showing the amount disbursed in each case, and on what account, one of which receipt shall be marked "original," and retained by the Assessor and Collector of Water Rates; one shall be marked "duplicate,"

and forthwith delivered to the City Comptroller, and one shall be marked "triplicate," and filed with the City Auditor.

Sec. 905. Withholding License.—The Assessor and Collector of Water Rates is hereby authorized to withhold a license for the use of water from the water works when, in his opinion, such license cannot be granted without the liability and likelihood of the water being used for other purposes than that for which the license is taken.

Sec. 906. Requiring Additional License.—If a license shall be issued for the use of water upon any premises, and after said license has been issued, and during the time for which it is issued the Assessor and Collector shall become satisfied that water upon said premises is used or the fixtures are exposed to be used for purposes not contemplated by the license issued, then the Assessor and Collector may require the person to whom said license was issued to take out a license for the use of water for the purpose for which, in the judgment of the Assessor and Collector, the water is exposed to be used, and in default of such license being taken out the Assessor and Collector is authorized to revoke the license actually issued and shut off the water from such premises.

Sec. 907. Meters, Bonds, Deposits, Etc.—The Assessor and Collector of Water Rates is authorized to order meters set when there is any doubt as to the quantity of water used or wasted on any premises, and he may place meters for temporary and special purposes when the interests of the city can be subserved thereby. Consumers may take water by meter measurement when the supply is a permanent one upon furnishing an approved meter. In no case shall any meter owned by the City return less than two dollars per month. Parties desiring meter and meter rates in preference to annual rates shall make application to the Assessor and Collector of Water Rates, pay the cost of the meter and placing the same, and the minimum rate will be seventy-five cents per month. When the supply is by meter the City will require a deposit sufficient to cover the estimated use for two months; *provided*, that when the amount of the deposit required by this section shall equal or exceed ten dollars the consumer shall be allowed in lieu of the cash deposit, to file a bond with two or more securities, for the payment of all water bills in accordance with the Ordinances of the City. Such bond shall be in an amount at least equal to the estimated amount of water bills for three months,

but in no case shall said bond be less in amount than twenty-five dollars, and shall be approved by the City Comptroller, and be filed in the office of the Assessor and Collector of Water Rates. Failure to make such deposit or file such bond shall be cause for shutting off water.

Sec. 908. **Placing Meters.**—Whenever the Assessor and Collector of Water Rates shall determine to place a water meter upon any premises, and the said premises are supplied by more than one connection with the city mains, he shall notify the owner or occupier of said premises to at once cause his plumbing to be so reconstructed as to permit a supply to be furnished from one connection only with the main; and if the owner or occupier of the premises, after such notice, shall fail to make the required change, the Assessor and Collector of Water Rates shall refuse to renew the license upon said premises until the required change is made.

Sec. 909. **Cost of Meters and Fixtures.**—The Board of Fire and Water Commissioners shall provide a schedule of prices governing the sale of meters and all fixtures furnished by the City, and such schedule shall be filed with the Assessor and Collector of Water Rates, the City Comptroller and City Auditor.

Sec. 910. **Meters—Duty of Superintendent.**—The Superintendent of Water Works shall, upon the order of the Assessor and Collector of Water Rates, cause meters to be set, reset, removed, repaired or tested. When the work is done the order shall be returned by the Superintendent to the Assessor and Collector of Water Rates, with a detailed report of the work performed. The Superintendent of Water Works shall cause statements to be promptly taken of all meters at such times and as often as the Assessor and Collector may deem necessary to secure accurate meter records, and shall also cause to be made forthwith, special inspection of any premises or the reading of any meter, or the turning on or off of water, upon the written order of the Assessor and Collector of Water Rates.

Sec. 911. **Inspection of Meters—Charge For.**—It shall be the duty of the Assessor and Collector of Water Rates to cause the frequent inspection of meters, and all meters shall be tested as often as may be necessary to insure their thorough repair and accurate registration. No charge shall be made for such inspections and tests. When an actual test of the meter, made at the request of the

consumer, shows the same to be in order and correct in registration, a charge of \$1.00 shall be made and collected by the Assessor and Collector. In case such consumer fails to pay such charge within ten days after the notice of same, the Assessor and Collector shall turn off service as delinquent.

Sec. 912. Repair, Re-Setting, Etc., of Meters.—When the Assessor and Collector of Water Rates initiates the repair, resetting, boxing, reboxing, moving and taking out of meters he shall charge only for material furnished and the machinist's work necessary. For all meter work initiated by consumers, the Assessor and Collector of Water Rates shall charge and collect for the actual labor and material furnished. For failure on part of any consumer to pay the charges under provision of this section, within ten days, after notice of the same, the Assessor and Collector shall turn off the service as delinquent.

Sec. 913. Defective Meter—Monthly Bill.—When water is taken by meter measurement, and by reason of a temporary defect in the meter the monthly bill cannot be arrived at accurately, the Assessor and Collector of Water Rates may make the bill an average of the preceding bills covering a period not to exceed six months.

Sec. 914. Meters at Public Institutions, Parks, Etc.—The Assessor and Collector of Water Rates may, in his discretion, cause meters to be placed on all or any of the public institutions, buildings, parks or other public places where water is used from the water works, to ascertain the average amount of the consumption of water daily at each, and shall furnish monthly statements thereof for the information of the Mayor and the Common Council.

Sec. 915. Taking Water From Gutters.—For all building purposes, where hydrant water is taken from the street gutters or street fountains and used, the regular license shall be paid, as though the water was taken direct from the water works.

Sec. 916. Cutting Off Water.—In all cases of the non-payment of the water rent within ten days after the same becomes due, the supply may be cut off and not turned on again for the same person, either in the same location or elsewhere, except upon payment of the amount due, together with the sum of one dollar for expense of shutting off and turning on the water. And the Assessor

and Collector of Water Rates shall keep a complete list of such delinquents.

Sec. 917. Leaks and Defects in Plumbing.—The Assessor and Collector of Water Rates shall cause water consumers to remedy all leaks and defects in plumbing and may cut off water for failure to make necessary repairs.

Sec. 918. Access to Premises.—The Assessor and Collector of Water Rates, and any inspector of the water department, in the line of duty, shall have free access at all reasonable hours to any premises where it may be necessary to ascertain the reading of the meters, the location or condition of water pipe or other fixtures attached to the water works, or to shut off or to let on water from or to any hydrant, pipe or other attachment, or for any other purpose that may be deemed essential for the preservation of the works, prevention of waste, or protection of the revenue from the water works.

Sec. 919. Enclosing Water Using Premises.—In no case shall a license be issued to anyone for the use of water until it shall have been ascertained from actual inspection that the premises are so inclosed as to prevent persons having no license from using water therefrom without the knowledge of the person to whom the license is granted. It shall be lawful for the Assessor and Collector of Water Rates to shut off the water from any premises not enclosed in conformity to this section.

Sec. 920. Inspection of Adjoining Premises.—It shall be the duty of the Assessor and Collector of Water Rates to cause to be inspected all premises connected with or contiguous to the water works system, to ascertain whether the City is being remunerated for water consumed and whether the Ordinances of the City governing water consumption are properly observed.

Sec. 921. Stop Boxes.—Whenever the Assessor and Collector of Water Rates shall find that the stop box controlling the supply of any premises is broken or not in serviceable condition, he shall notify the owner or occupant of the premises that a new box is required, and the Assessor and Collector shall refuse to grant a license for such premises until a new and sufficient box is duly set or repaired.

Sec. 922. Using Hydrants of Others.—Persons residing on streets in which the water pipe has not been laid may obtain a license for the use of water upon producing the written permission of the owner of the hydrant from which it is proposed to take water, said permit to be filed in the office of said Assessor and Collector.

Sec. 923. Unlawful Use of Water—Penalty.—Whoever having a license or permit from, or agreement with Kansas City, for the use of water from the water works of said city shall use or allow to be used for purposes other than that specified in the license or permit from, or the agreement with, said city, or shall knowingly permit any person not authorized by said city to take or use water from any hydrant or connection on the premises or under the control of such person, or permit the water to run therefrom without being used, shall be deemed guilty of a misdemeanor, and on conviction thereof, fined not less than one dollar nor more than fifty dollars.

Sec. 924. Wasting Water.—If any person having a water license shall use, or suffer to be used, water from the premises designated in his license, for any other purpose than that specified therein, or shall suffer any person not licensed to use water from such premises, or shall suffer any private hydrant to remain exposed to public use, or shall suffer or permit any unnecessary waste of water therefrom, or shall negligently suffer to waste, because of the plumbing fixtures being out of repair, or otherwise, the Assessor and Collector of Water Rates may cause the water to be shut off from such premises. And it is hereby made the duty of all inspectors and policemen to report to the Assessor and Collector of Water Rates, any and all breaches of this section.

Sec. 925. Obstructing Water Works—Penalty.—No person shall cast, throw or deposit, or cause to be cast, thrown or deposited, in any reservoir, well, cistern, tank, water pipe or fire hydrant of said water works any wood, stone, brick, dirt, rags, paper, trash, rubbish, bones or the body, or any portion thereof of any dead animal or any other substance or thing that may render the water impure or unwholesome, or is likely to obstruct the free flow thereof; nor shall any person in any way hinder, prevent or obstruct the lawful operation of said water works, or the machinery, tanks, pipes, hydrants or any other part or portion thereof. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

and upon conviction thereof, fined not less than one dollar nor more than five hundred dollars.

Sec. 926. Unauthorized Use of Water—Penalty.—Whenever the Assessor and Collector of Water Rates causes the water to be shut off from any hydrant or premises, and the same shall be turned on again without the permission of said Assessor and Collector, the person or persons so turning on the water, or causing the same to be turned on, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding one hundred dollars for each and every offense.

Sec. 927. Using Water Without License—Interfering With Apparatus—Turning on and Shutting Off Water—Penalty.—Whoever shall by himself or by any person acting under his authority, use or take water from any part of the water works aforesaid, without a license or permit, or shall, without authority from said city, open or hitch to, dig out, cover up, or remove any fire-plug or hydrant, stop cock, valve, valve box or other fixtures appertaining to said water works, or shall let on or shut off water into or from any water pipe, wherever situated, shall be deemed guilty of a misdemeanor, and on conviction thereof, fined not less than one dollar or over five hundred dollars. This section shall not be so construed as to interfere with any officer, agent or employe of the city in the proper discharge of his duty.

Sec. 928. Sprinkling Hours.—The use of hand hose for washing fronts and pavements and sprinkling streets and lawns, except on Sundays, is strictly prohibited during business hours, and may be used only from five to eight o'clock a. m., and five to half past eight o'clock p. m. The proper use of hand hose on Sunday is not restricted to any hour. Any violation of this section shall be cause for the shutting off of water.

Sec. 929. Badge of Water Department Employees—Penalty.—It shall be unlawful for any person other than such person or persons as may be designated by the Board of Fire and Water Commissioners, to make, wear or have in his possession a badge made in the likeness and similarity of the badge adopted by the said board to be worn by employes of the water department. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less

than ten dollars nor more than five hundred dollars for each and every such offense.

Sec. 930. **Duty of Policemen.**—It is hereby made the duty of all policemen, when on duty, to report to the Chief of Police any and all violations of this chapter, and especially to investigate the use of any fire hydrants that are being used, and then ascertain if used by proper authority.

Sec. 931. **Penalty.**—Any person, firm or corporation failing, neglecting or refusing to comply with any provision or requirement of this chapter shall be deemed guilty of a misdemeanor, and on conviction thereof, where no other penalty is provided, shall be fined not less than one dollar nor more than five hundred dollars.

CHAPTER 19.

WEIGHTS AND MEASURES.

Section.

- 932. Inspector—Appointment—Salary.
- 933. Duty of Inspector.
- 934. Refusing to Have Scales, Etc. Tested—Penalty.
- 935. Using Incorrect Scales—Penalty.
- 936. Using Short Measures—Penalty.
- 937. Weighing and Measuring.
- 938. Testing Scales for Precious Metals.
- 939. Using Untested Scales in Weighing Gold, Etc.—Penalty.
- 940. Using Incorrect Scales in Weighing Gold, Etc.—Penalty.
- 941. Inspector's Duty When Scales are Reported to Him.
- 942. Use of Incorrect Standard by Inspector.

Section.

- 943. Fees for Testing Scales.
- 944. Fees for Depot and Other Scales.
- 945. Inspector Must Deposit With Treasurer.
- 946. Salary of Inspector—How Paid.
- 947. Fees to be Part of City Revenue.
- 948. Weight Tickets.
- 949. City Weights—Duty of Police—Penalty.
- 950. Public Scales.
- 951. Weighmasters for Public Scales.
- 952. Duty of Weighmaster.
- 953. Returns of Weighmaster.
- 954. Penalty.

Charter, Art. III, Sec. 1, Cl. 15.

Sec. 932. **Inspector—Appointment—Salary.**—There shall be an inspector of weights and measures who shall be appointed by the Mayor by and with the consent of the Upper House of the Common Council. And shall receive for his services such salary as may be fixed by ordinance, provided the fees collected as hereinafter authorized, amount to such salary so fixed.

Sec. 933. **Duty of Inspector.**—It shall be the duty of said inspector, at least twice in each year, to visit the various places of business within the city where scales, weights, measures and other instruments are used in weighing or measuring articles of merchandise or other things, for purchase or sale, and also all railroad yards and depots where depot and track scales are used for weighing merchandise, live stock and other articles, and upon which freight or express charges are charged or paid, and to examine and test the accuracy of such scales, weights and measures and other instruments of weight and measurement, and to seal the same, when found or made correct by him, according to the standard prescribed by the

laws of the United States and of the State of Missouri. It shall be the further duty of said inspector to perform the foregoing services upon the request and at the expense of any person owning or using any scales as often as thereto requested.

Sec. 934. Refusing to Have Scales, Etc., Tested—Penalty.—If any person shall fail or refuse to have any instrument of weight or measurement in his possession or use, examined, tested, corrected or sealed, when called upon for that purpose by the inspector, as herein provided, or to pay the established fee for the same, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five nor more than five hundred dollars.

Sec. 935. Using Incorrect Scales—Penalty.—If any person shall use any instrument of weight or measurement, in the purchase or sale of any article or merchandise, or other thing, that is incorrect according to the standard prescribed by law, and that has not been tested and sealed as herein provided, or, if any person shall alter, or permit to be altered, any such instrument, which has been so sealed so as to make the same incorrect, according to such standard, or shall use any such instrument or keep the same for use in the purchase or sale of merchandise or other thing, knowing that such instrument is incorrect, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten nor more than five hundred dollars.

Sec. 936. Using Short Measures—Penalty.—No person, firm, or corporation, or hawker, huckster, peddler or other person, shall use, or permit to be used in any store or place of business, under his control or in the conduct of his business, as such hawker, huckster, peddler or other person, any measure, used for the purpose of buying or selling any article or thing by dry measure, except one quart, two quart, four quart, one peck, one-half bushel and bushel measures, and the use of seven-eighth, three-eighth, five-eighth and three fourths, or any other fractional part of a bushel than those hereinbefore specified, is hereby prohibited. It being the intention of this section to suppress the practice of selling by dry measure in measures apparently representing the standard measures, whereas, in fact, said measures only approximately represent such measures.

Any person violating the provisions of this section shall be fined not less than five (\$5) dollars nor more than five hundred (\$500) dollars.

Sec. 937. Weighing and Measuring.—No person shall sell or offer for sale in the public markets or anywhere in Kansas City, any fruit, vegetables or berries in baskets, crates or other measures, at or for a greater weight or measure than the true weight or measure thereof, and all meats, poultry and provisions, excepting vegetables sold by the head or bunch, of every kind sold in the markets or elsewhere in said city, shall be weighed or measured by scales, weights or patent balances, or in measures duly tested and stamped by the city inspector of weights and measures; *provided*, that poultry may be offered for sale and sold in other manner than by weight, but in all cases where the party intending to purchase shall so desire and request, poultry shall be weighed as hereinafter provided.

Sec. 938. Testing Scales for Precious Metals.—It shall be the duty of such inspector to test and seal any instruments to be used in the weighing of gold, silver or other precious metals, when found or made accurate by him, according to the standard prescribed by law; and he shall charge and collect therefor, two dollars for every such instrument so tested and sealed.

Sec. 939. Using Untested Scales in Weighing Gold, Etc.—Penalty.—If any person shall use, or keep for use, any scales or instruments of weight, to be used in weighing gold, silver or other precious metals, in the purchase or sale thereof, without having the same first tested and sealed as aforesaid, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined not less than five nor more than five hundred dollars.

Sec. 940. Using Incorrect Scales in Weighing Gold, Etc.—Penalty.—If any person shall use, or keep for use, in the purchase or sale of gold, silver or other precious metals, any scales or other instruments of weight, without having first had the same tested and sealed as aforesaid, and the same shall be proved to have been incorrect, according to the prescribed standard, or shall use, or keep for use, for the purpose aforesaid, any such instrument, knowing the same to be incorrect, whether the same has been tested or sealed or not, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, fined not less than fifty nor more than five hundred dollars.

Sec. 941. Inspector's Duty When Scales are Reported to Him.—Whenever the inspector shall have notice that any person

in the city is using incorrect or fraudulent weights or measures, it shall be his duty to immediately test such alleged incorrect weights or measures, and if found to be incorrect, to make them correct and seal the same, or notify the owner or user to have the same made correct.

Sec. 942. Use of Incorrect Standard by Inspector.—If the standards used by the inspector in testing any instruments of weights or measurement as herein provided shall, at any time, be different from those prescribed by law, and said inspector shall know this fact, the said inspector shall, for such use thereof, be deemed guilty of a misdemeanor, and upon conviction thereof be fined not less than twenty dollars nor more than five hundred dollars.

Sec. 943. Fees for Testing Scales.—The said inspector shall charge and collect for examining, testing and sealing, except as herein otherwise provided, the following fees, to-wit: For all instruments of weight, of capacity not exceeding two hundred pounds, fifteen cents; of capacity over two hundred pounds and less than six hundred pounds, twenty-five cents; of capacity over six hundred pounds and less than two thousand pounds, fifty cents; and of capacity over two thousand pounds, one dollar. For all instruments of measurement, as follows: For any yard stick, dry or liquid measure, five cents; for any set of measures, twenty-five cents. Such fees shall be paid by the person or persons owning or using the instrument tested and sealed.

Sec. 944. Fees for Depot and Other Scales.—The inspector shall charge and collect, for testing and sealing any scales, to be used in weighing hay, grain, coal, live stock, or other things of like nature, and for testing and sealing any depot or track scales, two dollars for any scale so tested and sealed.

Sec. 945. Inspector Must Deposit With Treasurer.—The inspector shall at the middle and end of each and every month deposit with the City Treasurer all money collected by him as fees under this ordinance, and shall at the same time file with the City Comptroller an itemized statement, showing what scales, weights and measures were tested by him since the filing of his last report, the names of the owners thereof, and the amounts charged and collected.

Sec. 946. Salary of Inspector—How Paid.—After the inspector shall have made his deposit with the treasurer at the end of the month, the treasurer shall certify to the auditing committee the amount of money handed in by the inspector during the month, and out of such money so deposited the inspector shall receive the monthly instalment of his salary provided such money is sufficient to pay the same; but if the money deposited with the treasurer by the inspector for any month be insufficient to pay the inspector his monthly instalment of salary, then the same shall be paid out of any surplus money deposited with the City Treasurer by the inspector during the same year.

Sec. 947. Fees to be Part of City Revenue.—All fees collected by the inspector shall go into the treasury and be a part of the city revenue, excepting the sum which shall be used to pay the inspector's salary, as provided herein.

Sec. 948. Weight Tickets.—It shall not be lawful for any person, firm or corporation to sell and deliver any hay, coal, coke, charcoal, firewood or other fuel to be used in the city unless the delivery of such articles shall be accompanied with a delivery ticket signed by the person, firm or corporation selling said fuel, stating in tons, fractional parts thereof or pounds avoirdupois the weight thereof in the vehicle used for said delivery, unless the same be wood, when the quantity shall be expressed in cords or fractional parts thereof. Said ticket shall also state the names of the seller and purchaser, and said ticket shall be delivered to the purchaser of any of said articles by the seller in all sales of the same and at the time of delivery.

Sec. 949. City Weights, Duty of Police—Penalty.—If any purchaser of hay, grain, coal or feed of any kind shall so demand, it shall be the duty of the seller or dealer, to have the hay, grain or feed or fuel of any kind whatsoever, weighed upon the nearest public scales, or if wood, the same measured by public weighers, provided that the fees, if not otherwise agreed, shall be paid by the purchaser. The inspector of weights and measures or his deputy, or any police officer of Kansas City, shall have power to stop any person hauling hay, corn, oats, grain or feed or fuel of any kind in any vehicle from any yard or private scales, and require said person to exhibit the delivery ticket or weigh-bill or weight ticket of said load, and require said person to drive to any public yard scales, duly tested, and sealed in the vicinity, and have the same weighed, and require said person

to return after delivering the load and have the vehicle weighed. The weighers of either public or yard scales, shall, without delay and without charge therefor, weigh all vehicles when required to do so by the inspector, his deputy or any police officer for the purpose of testing the correctness of the weight at the yard scales, and any yard scales may be used by the Inspector of Weights and Measures, his deputy or any police officer, for testing and proving the accuracy in weighing of any other scales or of any draught weighed or load hauled. Any person who shall sell, deliver or attempt to sell, or deliver any short, false or fraudulent weight or measure of any article of food, fuel or merchandise of any kind, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than ten dollars nor more than one hundred dollars for each and every offense.

Sec. 950. Public Scales.—There shall be established and owned by the city for the purpose of public weighing three or more public scales upon or adjoining the public thoroughfare, upon which may be weighed grain, hay, feed, produce, coal, coke or other fuel, and articles of merchandise required to be weighed, by statute or ordinance. Said scales hereafter established shall be located by the Board of Public Works and constructed by contract, under their supervision with such restrictions, rules and tests as they may see fit to impose. One of such scales shall be in West Kansas or a district west of the bluff, one near or contiguous to the Market Square and one in a district south of 15th street and west of Forest avenue. Said scales must be tested at least once every three months by the Inspector of Weights and Measures.

Sec. 951. Weighmasters for Public Scales.—It shall be the duty of the Comptroller to advertise daily for one week, before the first day of June of each year, in the official paper of the city, for proposals for the management of said scales, which proposals shall state how much per cent of the gross revenue from said scales the bidder will pay for the use of the same, and the Comptroller, with the Board of Public Works, shall award to the best bidder, who shall be known as a weighmaster, the right to use said scales, until another award is made, under such restrictions, rules and regulations as may be made from time to time by ordinance; *provided*, however, that not more than one scale shall be awarded to one person, nor for a longer period than two years, and that the successful bidder shall at once enter into bond, to be approved by the Comptroller, in a sum not less than two thousand dollars (\$2,000) for the care and safe keeping

of the property entrusted to his charge, and for the prompt, continuous and faithful discharge of his duties, and the prompt payment to the city of all money due. The weighmaster may appoint an assistant, and the official bond of the weighmaster shall be holden and answer for the faithful and honest performance of his duties as well as the weighmaster. The weighmaster shall be responsible for all acts of the assistant, shall pay the said assistant such compensation as they may agree upon without any liability therefor on the part of the city; and said assistant shall, in all respects be liable and subject to the ordinances and rules and regulations for the government of scales or relating to weighmasters.

Sec. 952. Duty of Weighmaster.—The weighmaster appointed for each scale shall weigh or measure any article of commerce that may be offered for weighing, keep a register in form described by the Comptroller, in which he shall enter any and every load weighed, with the weight of the same and fees received for weighing. He shall also issue to the driver of any vehicle of custodian of every draught a ticket as hereinbefore described. It shall be the duty of the weighmaster to keep his scales in good order, and repair without charge to the city, carefully preserve the scale books, have the scales open and ready to weigh daily (Sundays and legal holidays excepted), from April 1st to October 1st, from 7 a. m. to 6 p. m., and the balance of the year from 8 a. m. to 5 p. m. In all cases where mud or dirt shall cling to the vehicle weighed, the weighmaster shall make deductions for the same, and also for any undue moisture in hay. Any weighmaster neglecting his scale or his duty, or any assistant serving under him, may be at once relieved from duty by the Mayor, which removal shall be reported to the Comptroller, who, in case of the weighmaster, shall place the scale in charge of a competent person, who shall perform the duties until such time as the matter may be investigated by the Comptroller and Board of Public Works; and if not restored to the lessee, the scales shall be relet, subject, however, to the same rules, restrictions and penalties as were placed upon the deposed weighmaster.

Sec. 953. Returns of Weighmaster.—The weighmaster of each scale shall make weekly itemized returns in writing to the City Comptroller, in the form required by him, and pay to the City Treasurer all amounts due and owing to the city under his contract, and shall file with the Comptroller, at such time as may be designated, the sheets of the weigh books, which shall be preserved for one (1) year

and be open for inspection during such period of time. The fees for weighing on the public scales shall be ten (10) cents per load. *Provided*, however, that all weighing of loads to be delivered to the various departments of the city, shall on order of the Board of Public Works, be weighed free of charge to the city. The registry of each weigher shall be at all times open to the inspection of the Comptroller or the Board of Public Works, or any person appointed by them, or any person interested directly in weighing done by him.

Sec. 954. **Penalty.**—Any person who shall molest, hinder or interrupt any weighmaster, in the performance of his duties, or any person who shall weigh without using only such weights, beams or scales, as shall have been first examined, tested and sealed by the Inspector of Weights and Measures, or any weighmaster guilty of altering his scales so as to give false weight or giving a false weight, or any weighmaster making an overcharge for weighing or measuring, or not making charges and collecting for each and every draught, or any person violating or failing to comply with any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction fined in a sum of not less than ten (\$10) nor more than five hundred (\$500) dollars where no other penalty is specially provided.

CHAPTER 20.

MISCELLANEOUS.

Article.

- I. Vagrants.
- II. Liquor Selling.
- III. Sergeants-At-Arms.
- IV. Workhouse.
- V. Board of Pardons and Paroles.

Article.

- VI. Accidents.
- VII. Park and Boulevard Regulations.
- VIII. Poles and Wires.

ARTICLE I.

VAGRANTS.

Section.

- 955. Street Loafers.
- 956. Habitues of Low Resorts.
- 957. Gamblers, Cappers, Etc.
- 958. Trespassers
- 959. Traveling Gamblers.
- 960. Burglars.
- 961. Lewd Women.
- 962. Pigeon Dropping.
- 963. Definition of Pigeon Dropping.
- 964. Street Walkers.
- 965. Procurers and Pimps.

Section.

- 966. Decoying Females—Penalty.
- 967. Prostitutes.
- 968. Shoplifting.
- 969. Ordering Goods Shipped to Untrue Address.
- 970. False or Forged Check, Etc.
- 971. Worthless Check, Etc.
- 972. Untrue Name.
- 973. Failure to Return or Pay for "C. O. D." Purchases.
- 974. Penalty.

Charter, Art. III, Sec. 1, Cl. 26.

Sec. 955. **Street Loafers.**—Any person, who, in this city, lives idly, has no visible means of support, and is found loitering, rambling, wandering or loafing about the streets or thoroughfares of this city, shall be considered and treated as a vagrant.

Sec. 956. **Habitues of Low Resorts.**—Any person, who, in this city, lives idly, and is a frequenter of saloons, bar-rooms, bawdy houses, gambling houses or any disorderly houses, shall be considered and treated as a vagrant.

Sec. 957. **Gamblers, Cappers, Etc.**—Any person, who, in this city, lives idly, and is in a gambler or roper, steerer or capper

for any gambling house, or room, or any gambling game, shall be considered and treated as a vagrant.

Sec. 958. Trespassers.—Any person, who, in this city, is found trespassing upon the private property of another, and cannot give a good account of himself, shall be considered and treated as a vagrant.

Sec. 959. Traveling Gamblers.—Any person, who, for the purpose of gaming or gambling, travels about from place to place or goes from place to place, in this city, for such purpose, or frequents depots, railroad cars or trains for such purpose, shall be considered and treated as a vagrant.

Sec. 960. Burglars.—Any person, having in his possession, or upon his person, any instrument, tool or thing, used or constructed for committing burglary, or the picking of locks or pockets, and failing to give a good account of the possession of the same, shall be considered and treated as a vagrant.

Sec. 961. Lewd Women.—Any prostitute or lewd woman, or any woman an inmate of any bawdy house, house of prostitution, assignation, brothel or house of bad repute, found wandering about the streets or thoroughfares of the city, in the night time, or frequenting saloons, dram-shops, beer-houses or beer gardens, or any woman found employed or acting as a beer carrier, or singing or dancing in any such house or place, or who, for the purpose of prostitution, shall solicit patronage in the streets or other public places, in the night-time, shall be considered and treated as a vagrant.

Sec. 962. Pigeon Dropping.—Any person who shall set up, use, keep or exhibit any gaming table, gambling device or tricks at cards, or any trick or deception whatever, for the purpose of gambling or obtaining money, or shall engage in pigeon dropping, as hereinafter defined, shall be considered and treated as a vagrant.

Sec. 963. Definition of Pigeon Dropping.—“Pigeon dropping” as used in this chapter, is hereby defined as the engaging in winning or obtaining money or property or things representing money or property, by its being bet or staked on any game, instrument, contrivance or device, under the control of any person concerned

in the game, bet or stake, or of any confederate of such person, and so contrived or constructed that the result of the game, bet or stake, can be determined by either of such persons; or the borrowing of money or property, or anything representing money or property, to be bet on any such game, instrument or device; or the inveigling, enticing, persuading or advising any person to bet or lend money or property, or anything representing money or property, to bet on any such game, instrument, contrivance or device; or the borrowing or obtaining money or property on fictitious or worthless notes, checks, drafts, bonds, bills of lading, or any other printed or written instrument or any bogus thing whatever, purporting or representing to be money, specie or other valuable article, or the leaving them in the possession of any person for a fraudulent purpose.

Sec. 964. **Street Walkers.**—Any female who loiters, rambles, wanders or loafs about the streets or public thoroughfares of this city, in the night-time, and cannot give a good account of herself, shall be considered and treated as a vagrant.

Sec. 965. **Procurers and Pimps.**—Any procurer, procuress, pimp, inmate or man lodger in any bawdy house, house of prostitution or assignation, or in any way concerned in the keeping of such a house, shall be considered and treated as a vagrant.

Sec. 966. **Decoying Females—Penalty.**—Any person who shall assist, advise or persuade any female to go to a bawdy house, house of ill-fame, prostitution or assignation, shall be considered and treated as a vagrant, and upon conviction shall be fined not less than twenty-five dollars nor more than five hundred dollars.

Sec. 967. **Prostitutes.**—Any prostitute or any female who has the reputation of being a prostitute, who, in walking or riding through the streets of this city, shall conduct herself in an unseemly, lewd, boisterous or indecent manner, shall be considered and treated as a vagrant.

Sec. 968. **Shoplifting.**—If any person shall in any store or other place of business, knowingly take or carry away, any article of personal property of any value whatever, being the property of another, and shall not be able to give a good reason for so doing, he shall be deemed guilty of vagrancy.

Sec. 969. Ordering Goods Shipped to Untrue Address.—

Any person who, in any store or other place of business shall knowingly direct, or order the shipment or delivery of any article of any value whatever, by the owner of such store or other place of business, to an untrue or fictitious address, under an agreement for the purchase or lease of such article, with the intent thereby to defraud the owner of his property in such article, shall be deemed guilty of vagrancy.

Sec. 970. False or Forged Check, Etc.—Any person who shall knowingly obtain from any store or other place of business, any article of personal property of any value whatever, the property of another, by means and use of a false or forged check, draft, or order or indorsement thereof, knowing the same to be false or forged, with intent to deprive such other person of his property in such article, shall be deemed guilty of vagrancy.

Sec. 971. Worthless Check, Etc.—Any person who shall obtain any article of personal property of any value whatever, from any store or other place of business, by means of any worthless check, draft, or money-order, knowing the same to be worthless, shall be deemed guilty of vagrancy.

Sec. 972. Untrue Name.—Any person who shall obtain from any store or other place of business any article of personal property of any value whatever, by knowingly giving an untrue or unauthorized name for the purchaser with intent thereby to defraud the proprietor of such store, or other place of business, of such article, shall be deemed guilty of vagrancy.

Sec. 973. Failure to Return or Pay for "C. O. D." Purchases.—If any person shall order, from any store or place of business, in Kansas City, any article of personal property to be delivered to him, or any person, either for approval or to be paid for C. O. D., and if such person, upon the delivery of such article to him, shall fail or refuse to either pay for the same at once or return it to its owner such person shall be deemed guilty of vagrancy.

Sec. 974. Penalty.—Any person found guilty of being a vagrant as defined in any provision of this article, shall be fined, where no other penalty is prescribed, not less than ten dollars nor more than five hundred dollars.

ARTICLE II.

LIQUOR SELLING.

Section.

975. Selling Less Than Gallon.

976. Selling to be Drunk on Premises.

Section.

977. Exceptions.

978. Penalty.

Charter, Art. III, Sec. 1, Cl. 31.

Sec. 975. Selling Less Than Gallon.—No grocer, druggist, retailer or other person shall sell, offer for sale, give away, bargain, trade, or by any means or device dispose of, or cause or allow to be sold, offered for sale, given away, bargained, traded, or by any means or device dispose of by any person under his control or in his employ, at his stand, room or place, used or occupied by him as his place of business, any gin, rum, whiskey, brandy, beer, ale porter or wine, or any drink of which gin, rum, whiskey, brandy, beer, ale, porter or wine is any component part, in any quantity less than one gallon.

Sec. 976. Selling to be Drunk on Premises.—No grocer, druggist, retailer or other person shall sell, offer for sale, give away, bargain, trade or by any means or device dispose of by any person under his control or in his employ, at any room or place used or occupied by him as his place of business, any rum, gin, whiskey, brandy, beer, ale, porter or wine, or intoxicating or spirituous liquor of any kind, or any drink, in any quantity, of which gin, rum, whiskey, brandy, beer, ale, porter or wine is any component part, to be drunk in his place of business or upon his premises appurtenant thereto.

Sec. 977. Exceptions.—The provisions of this article shall not apply to any druggist who sells for medicinal purposes only, nor to any regularly licensed dramshop keeper.

Sec. 978. Penalty.—Any person violating any provision, requirement or regulation of this article shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined not less than twenty-five dollars nor more than five hundred dollars.

ARTICLE III.

SERGEANTS-AT-ARMS.

Section.

979. Duties of Sergeant-at-Arms of Lower House.

Section.

980. Duties of Sergeant-at-Arms of Upper House.

981. Compensation.

Sec. 979. Duties of Sergeant-at-Arms of Lower House.—

It shall be the duty of the Sergeant-at-Arms of the Lower House of the Common Council to attend all meetings of the Lower House of the Common Council, and do and perform any service under the instructions of said house or the speaker thereof, during the sitting of the house, or of the Mayor of Kansas City.

Sec. 980. Duties of Sergeant-at-Arms of Upper House.—

It shall be the duty of the Sergeant-at-Arms of the Upper House of the Common Council to attend all the meetings of the Upper House of the Common Council and to do and perform any service under the instructions of the Upper House of the Common Council or its president during the sitting of said Upper House, or of the Mayor of Kansas City.

Sec. 981. Compensation.—Said Sergeant-at-Arms shall receive such salaries as is or may be provided by ordinance.

ARTICLE IV.

WORKHOUSE.

Section.

982. Superintendent of Workhouse.

983. Duties.

984. Allowance for Work of Prisoners.

985. Compelling Work.

986. Escape of Prisoners.

987. Forfeiture of Time.

988. Solitary Confinement.

989. Prisoners Unable to Work.

990. Hours of Confinement.

991. Release on Payment of Fine.

992. Conversation With Prisoners.

993. Separate Apartments.

994. Sick Prisoners.

995. Duty of Physician.

996. Duty of Guards.

Section

997. House Work.

998. Sale of Product of Labor.

999. Arrest of Escaped Prisoners.

1000. Discharge of Prisoners.

1001. Same.

1002. Register of Discharge.

1003. Payment of Fines.

1004. Record of Clerk of Municipal Court.

1005. Penalty.

1006. Appointment of Employees.

1007. Examination of Prisoners.

1008. Disposition of Disabled Prisoners.

1009. Uniform.

Charter, Art. III, Sec. 1, Cl. 42.

Sec. 982. Superintendent of Workhouse.—A Superintendent of the Workhouse shall be appointed by the Mayor, by and

with the consent of the Upper House of the Common Council, at the opening of each fiscal year, and shall enter upon the discharge of his duties when duly appointed and qualified, unless he is sooner removed, he shall hold his office for the term of one year, and until his successor is appointed and qualified.

Sec. 983. Duties.—The Superintendent shall have the care and custody of the workhouse, grounds, enclosures, fixtures, appurtenances, tools and all property pertaining thereto, and of all persons confined therein. He shall visit all apartments thereof daily, and see that the same are kept clean and in good order; shall attend to the management of the prisoners and guards; see that the prisoners are employed at the places and upon the work designated by the Board of Public Works; see that the guards do their duty; that the prisoners are safely kept and lodged; and shall report to the City Comptroller monthly, the number of days' work done by each prisoner, the condition of the property of the city connected with the workhouse, together with such other facts and information as may be required by the City Comptroller or Common Council. At the expiration of his term of office he shall deliver to his successor all prisoners confined in the workhouse, together with all property of the city connected therewith. Necessary books shall be furnished the Superintendent, in which he shall register the names, age, height, sex, color and nativity of each prisoner received, with such other facts as may be necessary, together with the number of times the prisoner may have been committed, and the number of days' work done by each prisoner, the expiration of each prisoner's sentence or the time when he is otherwise legally entitled to his discharge. He shall enter into a proper book, to be furnished him for that purpose, all receipts and expenditures on account of the workhouse, all clothing, tools provisions and other articles procured for the workhouse. He shall superintend those employed to do the cooking and providing meals for the prisoners, shall see that the prisoners have a sufficient quantity of good and wholesome food; that their sleeping apartments are properly cleaned and ventilated and shall attend to such other duties as may be required of him by the Common Council. He shall receive all persons committed to the workhouse.

Sec. 984. Allowance for Work of Prisoners.—Whenever

the Chief of Police shall deliver any person to the Superintendent of the Workhouse, he shall endorse upon the execution or warrant of commitment the amount of money that may be in his hands belonging to such prisoner, and shall deliver to the Superintendent a copy of the execution or warrant of commitment under which the prisoner is committed, and the endorsement thereon; and the Superintendent shall endorse a receipt for the prisoner on the execution or warrant of commitment held by the Chief of Police. The Superintendent shall enter in a book, to be provided for that purpose, the execution or warrant of commitment, together with the endorsement thereon and the number of days' labor which the prisoner must give to satisfy the execution and costs. Each prisoner shall be allowed fifty (50) cents for each days' labor. Upon the delivery of any prisoner into his keeping, the Superintendent shall divest him of all articles of value and all unnecessary wearing apparel. All such articles shall be registered in a book and returned to such prisoner upon his being discharged.

Sec. 985. **Compelling Work.**—Said Superintendent shall compel each prisoner to work eight hours each day, if his health and strength will permit. Any person who shall refuse to work or who shall behave in a riotous or disorderly manner or shall resist or refuse to obey orders of the Superintendent, or shall attempt to escape from the workhouse, may be committed to close and solitary confinement, and may be fed on bread and water, until he consents to perform the duty, and may, if in the opinion of the Superintendent it may be necessary, be put in irons; but the Board of Pardons and Paroles shall have power to control the Superintendent in the extent and manner of punishment.

Sec. 986. **Escape of Prisoners.**—Whenever any prisoner shall escape from the workhouse, the Superintendent shall immediately notify the Mayor and Chief of Police thereof; and shall furnish the latter with a description of the fugitive and a statement of the manner of escape, and if he fails to do so within twenty-four hours after such escape, such failure shall be just and sufficient cause for his removal from office.

Sec. 987. **Forfeiture of Time.**—Any prisoner escaping from the workhouse, shall forfeit the time he may have labored therein,

and upon being retaken, shall work out the whole amount for which he was originally committed.

Sec. 988. Solitary Confinement.—Any person who shall be placed in solitary confinement, or shall refuse to perform the work required of him, shall not be allowed the credit for the time of such confinement or refusal.

Sec. 989. Prisoners Unable to Work.—If any person shall be sick and shall, in the opinion of the workhouse physician, be unable to work, he shall be allowed his time as though he had worked. Prisoners who cannot work by reason of the inclemency of the weather, shall nevertheless, be allowed a credit as though they had worked.

Sec. 990. Hours of Confinement.—Prisoners shall be confined within their appropriate departments within one hour after sunset. All lights in such apartments shall be extinguished by nine o'clock p. m., between April 1st and October 1st, and at eight o'clock p. m., during the remainder of the year. No lights shall be allowed in the sleeping apartments of any prisoner, except in case of sickness, and then under the direction of the Superintendent.

Sec. 991. Release on Payment of Fine.—Any prisoner may at any time, pay the Superintendent the amount of execution and costs or balance due thereon, deducting the amount of work performed by him, if any, and upon such payment or upon the prisoner working out the fine, and costs, or if he shall otherwise be legally entitled to his discharge, the Superintendent shall discharge and set him at liberty.

Sec. 992. Conversation With Prisoners.—No person except the workhouse physician and members of the Board of Pardons and Paroles shall hold any intercourse with any prisoner, unless permitted to do so by the Superintendent.

Sec. 993. Separate Apartments.—The Superintendent shall not permit male and female prisoners to occupy the same apartments.

Sec. 994. Sick Prisoners.—When any prisoner is sick, the

Superintendent shall immediately notify the workhouse physician of the fact, and he shall forthwith visit the sick prisoner and see that he is furnished with the proper food, medicines and care. The said physician may, if he deem it necessary, have any sick prisoner conveyed to the General Hospital; and when any prisoner taken to the hospital, shall, in the opinion of the hospital superintendent, have sufficiently recovered to be able to work, he shall, if his term of sentence shall not have already expired, be recommitted to the workhouse to work out the remainder of his fine and costs.

Sec. 995. Duty of Physician.—The workhouse physician shall, at least once every two weeks, visit the eating room of the prisoners during meal time; and if, in his opinion, the food of the prisoners is not sufficient or proper, he shall immediately report the fact to the Mayor, and make such recommendations in relation thereto as may be requisite to the health of the prisoners.

Sec. 996. Duty of Guards.—The guards shall perform such duties as the Superintendent may direct, in and about the guarding, management, control and working of the prisoners, and shall be supplied by the city with the necessary arms to enable them to properly guard the prisoners and prevent their escape; any guard who shall while on duty be found in a state of intoxication, or shall otherwise fail in the discharge of his duties, shall be forthwith discharged.

Sec. 997. House Work.—There shall also be appointed one woman, to labor in and about the workhouse, who shall be under the direction and the control of the Superintendent.

Sec. 998. Sale of Products of Labor.—The Superintendent may, with the consent of the City Comptroller, sell or otherwise dispose of any article used, made or produced in or about the workhouse, and shall pay the proceeds into the City Treasury, to be placed on credit of the general fund.

Sec. 999. Arrest of Escaped Prisoners.—The Superintendent, or any officer of the workhouse, or any other person, may arrest without warrant any person who shall have escaped from the workhouse, or any person found trespassing upon the workhouse premises, or attempting to rescue any prisoner, or attempt-

ing to assist any prisoner to escape, or hindering or obstructing or attempting to hinder or obstruct the Superintendent, guards or other officers of the workhouse in the lawful discharge of their duties, and any person so arrested shall be deemed guilty of a misdemeanor.

Sec. 1000. **Discharge of Prisoners.**—Each prisoner at the workhouse who may have worked out his time by labor, or whose fine may have been paid, or may have been granted a pardon by the Mayor, shall be brought by the Superintendent of the Workhouse to the office of the Clerk of the Municipal Court, and receive his final discharge, and whatsoever money or property belonging to him.

Sec. 1001. **Same.**—It shall be unlawful for the Superintendent of the Workhouse, guard or other person, to set free any prisoner until he shall have been brought in person before the Clerk of the Municipal Court.

Sec. 1002. **Register of Discharge.**—It shall be unlawful for the Clerk of the Municipal Court, or other person for him, to register the final discharge of a prisoner, until said prisoner shall have appeared in person before him, *provided*, that should the time of said prisoner have expired, while said prisoner is an inmate of the General Hospital, or under medical treatment, the presentation by the Superintendent of the Workhouse, of a certificate, duly signed by the workhouse physician, or some reputable physician, of the illness of said prisoner, at the date of his discharge, may be taken as evidence by said clerk as though said prisoner was brought before him.

Sec. 1003. **Payment of Fines.**—All moneys to be applied in whole or part on the fines of persons committed to the workhouse, shall be paid to the Clerk of the Municipal Court, who shall make a monthly report of such collection to the City Comptroller and turn the money over to the City Treasurer on the last day of each month, and the last day of each fiscal year.

Sec. 1004. **Record of Clerk of Municipal Court.**—It is hereby made the duty of the Clerk of the Municipal Court to keep a book of the entry of all moneys paid on the fines of persons who

have been committed to the workhouse; said book showing number of case, name of person, date of committal, amount of fine, amount credited on fine at date of committal, and the amount paid at time of release; also columns for remarks, showing whether prisoners worked out full time, escaped, sent to the hospital, paid part of fine and pardoned on balance, or pardoned on full, so as to show in full, the final disposition of each prisoner committed to the workhouse.

Sec. 1005. **Penalty.**—Any failure to comply with any of the provisions of this article shall be deemed a misdemeanor, and, upon conviction, subject the offender to a fine of not more than five hundred dollars.

Sec. 1006. **Appointment of Employees.**—The Superintendent of the Workhouse is hereby authorized by and with the consent of the Mayor to appoint and remove all employes in his department, and such appointees shall be paid as is provided by ordinance.

Sec. 1007. **Examination of Prisoners.**—It shall be the duty of the workhouse physician to daily examine all persons who are convicted for the violation of any ordinance and are to be sent to the workhouse, before they are sent thereto, and make a report forthwith to the Mayor, setting forth the name of every such person who is, in the opinion of said physician so disabled as to be unfit to labor or is afflicted with any contagious disease, sickness or infirmity; also the character of such disease or such sickness, the age and residence of such person and his crime and punishment.

Sec. 1008. **Disposition of Disabled Prisoners.**—Whenever the Workhouse Physician shall report any such person to the Mayor, the latter shall forthwith make such disposition of such person as he may deem proper, either by remission or reduction of a punishment or by pardon.

Sec. 1009. **Uniform.**—The Board of Pardons and Paroles by and with the consent of the Mayor, may select a garb or uniform to be worn by all inmates of the workhouse, and may fix the maximum price to be paid therefore and direct the Superintendent to procure such garbs or uniforms at the expense of the city.

ARTICLE V.

BOARD OF PARDONS AND PAROLES.

| Section. | Section. |
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| 1010. Board to be Composed of Three Persons. | 1016. Superintendent of Workhouse Shall Enforce Rules of Board. |
| 1011. Appointment—Term of Office—Shall Serve Without Compensation. | 1017. Mismanagement of Workhouse or Mistreatment of Prisoners—Investigation by Board—Powers and Duties of Board. |
| 1012. President Selected Annually—Appointment and Duty of Secretary. | 1018. Secretary, Powers and Duties of. |
| 1013. Meetings of Board—Quorum. | 1019. Secretary to Give Full Time to Duties—Salary. |
| 1014. Powers of Board—Probation. Parole and Pardon of Prisoners—Duty of Police Officers. | 1020. Attorney for Board—No Compensation. |
| 1015. Board to Control and Manage Workhouse—Discharge Employees, When—Reports. | 1021. Duties of Police Department. |

Sec. 1010. **Board to be Composed of Three Persons.**—There is hereby created in and for Kansas City a Board of Pardons and Paroles which shall be composed of three persons, who shall be selected with reference to special fitness for the position.

Sec. 1011. **Appointment—Term of Office—Shall Serve Without Compensation.**—Said board shall be appointed by the Mayor, and the terms of office of the members shall be for a period of three years; provided, that the members of the board first appointed hereunder shall, as soon as practicable, so classify themselves by lot that the term of one of such members shall expire at the end of one year, one at the end of two years, and one at the end of three years, from the third Monday in April, 1908. At the expiration of the term of a member a successor shall be appointed for a term of three years from the date of the expiration of his predecessor. The members of said Board shall serve without compensation.

Sec. 1012. **President Selected Annually—Appointment and Duties of Secretary.**—Said Board shall, within ten days after its appointment, organize by the election of one of its members as president. The board shall thereafter annually, at a regular meeting to be held within thirty days after the third Monday in April of each year, choose a president, to serve for a term of one year and until his successor be chosen and qualified. It shall also appoint a Secretary, who shall not be a member of the

board, and who shall serve at the pleasure of the board. The secretary shall act as court officer, shall keep a full and complete record of the proceedings of the board, and discharge such other duties as may be required of him from time to time by said board.

Sec. 1013. Meetings of Board—Quorum.—The Board shall hold regular meetings at least once a week, and as many special meetings as it may deem proper, and two members of said board shall constitute a quorum for the transaction of business, and an affirmative vote of at least two members shall be necessary to authorize any action of the board.

Sec. 1014. Powers of Board—Probation, Parole and Pardon of Prisoners—Duty of Police Officers.—The Board shall have power to inquire into the nature of any case brought before the Municipal Courts of the city, and may recommend that any person convicted thereby shall be pardoned, and shall have full power and authority to place any such convicted person upon probation, either before or after such person shall have been placed in any city prison or workhouse; shall have full power and authority to establish rules and regulations under which, and specify the conditions upon which any prisoner may be allowed to go upon parole outside the buildings and enclosures of any city prison or workhouse, but to remain while on parole, in the legal custody and under control of said board, and subject at any time to be placed or taken back within the enclosure of said prison or workhouse and full power to enforce such rules and regulations, and conditions, and to retake and reimprison any convict so upon parole. A written order of said Board shall be a sufficient warrant for all officers, named therein to authorize such officer to return to actual custody any conditional released or paroled prisoner; and it is hereby made the duty of all police officers to execute said order the same as ordinary criminal process. The board shall have power in all cases where the conditions of said parole are violated, to place in or return any such prisoner so violating said parole to said workhouse, and the time that said prisoner was upon parole shall not be counted as any part or portion of time served under any sentence, nor diminish in any manner the number of days of labor

required to satisfy the execution and costs under which said prisoner may have been committed to said workhouse.

Sec. 1015. Board to Control and Manage Workhouse—Discharge Employes, When—Reports.—The Board shall have control and management of the workhouse and shall have the power to establish and declare rules and regulations for its government and control and shall have power and authority to enforce such rules and regulations, and in case any employe shall fail, neglect or refuse to carry out and enforce such rules and regulations as established by the Board of Pardons and Paroles it shall have power and authority to discharge such employe, and it shall be the duty of such board to at all times keep itself informed as to the conditions at such workhouse and to make such changes in its management and control as the Board may from time to time deem proper and shall make report of the condition of such workhouse and the treatment of prisoners confined therein to the Mayor of Kansas City, as often as it thinks proper, and it shall from time to time suggest to the Mayor such ordinances as it deems proper to be passed by the Common Council of Kansas City touching the management and control of such workhouse.

Sec. 1016. Superintendent of Workhouse Shall Enforce Rules of Board.—It shall be the duty of the Superintendent of the Workhouse to carry out and enforce all the rules and regulations that may be made by the Board of Pardons and Paroles touching the management and control of the same.

Sec. 1017. Mismanagement of Workhouse or Mistreatment of Prisoners—Investigation by Board—Powers and Duties of Board.—In case the Board shall at any time discover or learn of any mismanagement of the workhouse or mistreatment of the prisoners confined therein, such Board shall have full power to and it shall be the duty of such Board to fully investigate such charges of mismanagement or mistreatment of the prisoners together with the official or employe charged therewith, and it shall be empowered to hear evidence in regard to the same and to give the official or employe against whom such charges may be made a fair and impartial trial and shall be empowered to subpoena and compel the attendance of witnesses upon such

investigation. And if the board upon such investigation shall determine that the Superintendent of such Workhouse shall have been guilty of a violation of any of the rules and regulations made by the Board for the control and management of the workhouse or shall have failed to discharge his duty as such superintendent in any respect or shall have been guilty of any mistreatment of the prisoners confined therein, such Board shall immediately report the same to the Mayor, together with such recommendations as it may see fit and proper; and in case an employe shall have been found guilty of a violation of any of the rules and regulations of the Board and shall have failed to discharge his duties as such employe in any respect, such Board shall have power to discharge or suspend such employe as it may deem proper.

Sec. 1018. **Secretary, Powers and Duties of.**—The Secretary of said Board shall attend all sessions of the Police and Municipal Courts and see to it that poor persons arraigned there in shall have full opportunity of defense, and safe-guard in every way the rights of such persons. Said Board and its Secretary shall at all times, have full access to the police stations, City prisons and workhouses and the right to fully investigate the cases of all persons confined therein and to consult with such persons at any and all times.

Sec. 1019. **Secretary to Give Full Time to Duties—Salary.**—The Secretary of said Board shall give his full time to the performance of the duties of his office and shall receive such salary as may be provided by ordinance.

Sec. 1020. **Attorney for Board—No Compensation.**—The Board may appoint an attorney to act specially for it in legal matters, but said attorney shall likewise serve without compensation.

Sec. 1021. **Duties of Police Department.**—It shall be the duty of the police department of the City to co-operate with the Board of Pardons and Paroles, and at all times, at the request of said Board, to render it such aid and assistance as it may require to carry out the provisions of this article.

ARTICLE VI.

ACCIDENTS.

Section.

1022. Duties of Police.

1023. Duties of Health Commissioner.

1024. Duties of City Engineer.

Section.

1025. Compromise of Claims.

1026. Blank Forms for Reports.

1027. Injured Person to Give Notice,
Etc.

Charter, Art. III, Sec. 1, Cl. 11.

Sec. 1022. **Duties of Police.**—It shall be the duty of the Chief of Police to cause patrolmen and all officers of police under his control to make written reports of all accidents coming to their knowledge caused by the dangerous or defective condition of any street, bridge, sidewalk or other highway, or by the act of any employe of the City, or in any case where there may be a liability on the part of the City for damages. Said reports shall state the time and place of the accident, name and residence of the injured party, the extent of the injury, names of witnesses to the accident, and all other facts obtainable in regard to it, and shall be delivered by the Chief of Police to the City Counsellor and Health Commissioner.

Sec. 1023. **Duties of Health Commissioner.**—Immediately upon receiving the report mentioned in the preceding section, in case of personal injuries, it shall be the duty of the Health Commissioner to visit the person injured and ascertain the nature and extent of the injuries received, and obtain from such person a statement of the manner and cause of the accident; and if, in the opinion of the Health Commissioner, it be deemed proper, he shall offer to attend to the injuries of such person free of charge. All information received by the Health Commissioner shall be reduced to writing and immediately transmitted to the City Counsellor, who shall preserve the same for reference in case of suit being brought against the City for any such injury or accident.

Sec. 1024. **Duties of City Engineer.**—It shall be the duty of the Chief of Police to immediately notify the City Engineer, in writing, of the time and location of any such accident, and immediately thereupon, the City Engineer shall cause the spot or location of said accident to be diagramed or photographed and obtain the names and statements of witnesses as to the nature and condition of the street, alley or sidewalk where such injury

occurred and upon reducing the same to writing, shall transmit the same to the City Counsellor, who shall preserve such information in the same manner and for the same purpose as is required in the preceding section.

Sec. 1025. Compromise of Claims.—In case of injuries arising from defects or obstructions in the streets, alleys or sidewalks, it shall be the duty of the Health Commissioner upon visiting the person so injured, and ascertaining the nature and extent of such injuries, to recommend to the Claims Committee of the Common Council, as a basis of settlement for such injuries, stating therein the nature and extent of the injuries received by such person, and an amount, which in the opinion of the Health Commissioner and City Counsellor, would be a proper and just allowance for such injuries, and upon such recommendation, if the Claims Committee or a majority thereof, shall approve the same, then the Health Commissioner and City Counsellor shall have authority to settle with such person for such sum; *provided*, that such person so injured shall sign an agreement to the effect, that upon the payment of said amount, Kansas City shall be released from all further liability on account of such injury, but no such settlement or agreement shall be binding upon the City until an ordinance appropriating the money to pay the same shall have been passed.

Sec. 1026. Blank Forms for Reports.—The City Counsellor is hereby instructed to prepare blank forms for the reports of the different officers mentioned herein and to so prepare them as to carry into effect all the provisions of this article.

Sec. 1027. Injured Person to Give Notice, Etc.—That any person who shall sustain an injury to his person or property by reason of a public street, bridge, sidewalk or alley of this City being out of repair or in a defective condition for the purpose of travel thereon, shall within sixty days after such injury has occurred notify the City Counsellor and Health Commissioner in writing, of said injury, and in said notice shall set forth under oath a statement of the cause of said injury, its nature and extent, and no person sustaining such an injury to his person or property shall begin or maintain an action therefor in the courts against this City unless the notice as herein

provided for be given, and no action shall be commenced or maintained for such an injury until thirty days after the service of such notice; provided, that any person sustaining such an injury may at the time of serving the notice as herein provided for, file therewith a written request that the claim for damages for said injuries be submitted to the Committee of the Common Council known as "The committee for the settlement of damage claims," and in case said request is filed with said notice, said committee shall, within thirty days thereafter, proceed to hear the evidence touching said injury and within fifteen days after the conclusion of said hearing notify the injured party of its decision. In case said committee offers to recommend to the Common Council the appropriation of a certain sum in satisfaction and settlement of said injury, said injured party may, in writing, accept said offer within fifteen days after being notified of said decision, and in case said injured party shall offer, in writing, to accept said sum in compromise of said claim, said compromise shall be referred by said committee to the Common Council for action thereon at the next regular monthly meeting thereafter.

ARTICLE VII.

PARK AND BOULEVARD REGULATIONS.

Section.

- 1028. Certain Vehicles Prohibited on Boulevards, Etc.
- 1029. Lights on Vehicles.
- 1030. Lights on Motor Cycles, Etc.
- 1031. Vehicles and Horsemen Keep to Left in Passing, When.
- 1032. Vehicles and Horsemen Should Occupy What Part of Road.
- 1033. Red Street Lights—"Slow Down and Keep to Right."
- 1034. Where Vehicles Must Stop.
- 1035. Automobiles, Speed of.
- 1036. Automobiles, Etc., on Cliff Drive.
- 1037. Moving Houses on Boulevards, Etc.
- 1038. Permit to Move House—Conditions Thereof.
- 1039. Animals or Vehicles Standing on Boulevards.
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- 1041. Animals and Vehicles on Sidewalks, Grass, Etc.—Herds of Animals—Roller Skating Prohibited.
- 1042. Hitching Animals—Driving Over Sidewalks, Etc.
- 1043. Rubbish on Sidewalks, Etc.

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Section.

- 1044. Building Material on Boulevards.
- 1045. Obstructions on Boulevards, Etc., Red Lights.
- 1046. Games Prohibited — Crossing Grass Plots.
- 1047. Dangerous Sports Prohibited.
- 1048. Discharging Fire Arms, Explosives, Etc., Prohibited.
- 1049. Selling Goods—Posting and Distributing Hand Bills, Etc., Prohibited.
- 1050. Cutting, Defacing, Injuring Trees, Shrubs, Etc.
- 1051. Bicycles, Etc., Must Keep on Certain Paths, Etc.
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- 1056. Foot-ways.
- 1057. Fences Around Grass Plots, Etc., Prohibited.
- 1058. Penalty.
- 1059. Recommended by Board of Park Commissioners.

Sec. 1028. Certain Vehicles Prohibited on Boulevards, Etc.

—No omnibus, wagon, cart, dray, truck or other vehicle for carrying goods, merchandise, manure or any other articles, except such as are engaged in repairing or constructing said parks, boulevards, streets, avenues or driveways shall be allowed to enter upon any boulevard, parkway, street, avenue or park road under the control and management of the Board of Park Commissioners of Kansas City, Missouri; *provided*, however, that wagons or other vehicles carrying goods, merchandise or other articles to or from any house or premises abutting upon any of such boulevards or parkways shall be permitted to enter thereon at the cross street nearest to said house or premises in the direction in which the same are moving, and deliver or receive such goods, merchandise or other articles, but shall not proceed thereon further than the nearest cross street thereafter; but this pro-

vision shall not apply to any of the driveways within the limits of the parks, and said boulevards, parkways, avenues, streets or park roads shall not be used by business vehicles for traffic purposes, except as hereinbefore provided; and provided further, that Independence Boulevard from Dykington Avenue to Benton Boulevard shall be exempt from this regulation until parallel streets are made available for such vehicles.

Sec. 1029. Lights on Vehicles.—All carriages, cabs and other vehicles usually carrying lamps must keep the same lighted from sunset until sunrise; and all automobiles and other motor vehicles must display a white light ahead and red light behind from sunset to sunrise.

Sec. 1030. Lights on Motor Cycles, Etc.—All motor cycles and bicycles must carry a lighted lamp showing a white light ahead and red lights to the sides from sunset until sunrise, and said motor cycles and bicycles must strictly comply with the rules of the road as provided for all other vehicles and must not congregate nor run more than two abreast of each other.

Sec. 1031. Vehicles and Horsemen Keep to Left in Passing—When.—All vehicles and horsemen, when passing another vehicle or horseman going in the same direction, must keep to the left and leave the vehicle or horseman they are passing, on the right.

Sec. 1032. Vehicles and Horsemen Shall Occupy What Part of Road.—All vehicles or horsemen going at a walk or slow trot must keep near the curbstone or gutter on the right-hand side of the road in the direction in which they are going; those going more rapidly must keep nearer the middle of the road.

Sec. 1033. Red Street Lights—“Slow Down and Keep to the Right.”—Red street lights located in the center of driveways at intersections and turns indicate this rule of the road: “SLOW DOWN AND KEEP TO THE RIGHT;” and this rule of the road must be complied with on all intersections and turns of the boulevards and parkways whether lights are so located or not.

Sec. 1034. Where Vehicles Must Stop.—No vehicle shall stop for any purpose without first drawing up to the curbstone or

gutter, and always on the right-hand side of the road in the direction in which they are going.

Sec. 1035. **Automobiles, Speed of**—Automobiles or any other vehicles must not exceed a speed limit of 18 miles per hour on any of the boulevards, avenues, streets or parkways, must not exceed a speed limit of 15 miles per hour on any of the park roads within any park, and on Cliff Drive in North Terrace Park must not exceed a speed limit of 10 miles per hour.

Sec. 1036. **Automobiles, Etc., on Cliff Drive.**—All automobile and motor vehicles of every kind are strictly prohibited from entering upon Cliff Drive in North Terrace Park on Sunday of each week; on all other days of each week, such vehicles shall be permitted to enter upon and pass over said Cliff Drive, subject, however, to their strict compliance with the following rules and regulations:

First: Such vehicles must enter said Cliff Drive at its eastern terminus, or at one of its eastern entrances, and proceed in a westerly direction; such vehicles must not enter at the western terminus thereof and travel in an easterly direction.

Second: Such vehicles must keep to the right hand side of the road.

Third: Such vehicles must not exceed the prescribed speed limit of ten (10) miles per hour.

Fourth: Such vehicles must, at all times, be kept under perfect control by the operator or driver thereof, and said operator or driver must use extraordinary precaution to avoid accidents.

Sec. 1037. **Moving Houses on Boulevards, Etc.**—No person shall be permitted to move any house along or upon any boulevard or parkway without first obtaining a special permit from the Board of Park Commissioners, and then only within such stated time as may be established by said Board, and such permit shall contain the necessary conditions guarding against damage to property under the control of said Board of Park Commissioners, as provided in the next succeeding section of this article.

Sec. 1038. **Permit to Move House—Conditions Thereof.**—Every person obtaining a permit for the use of a portion of any boulevard, parkway, avenue, street, park road or sidewalk space shall be required to deposit with the Secretary of the Board of Park Com-

missioners a sum in cash or its equivalent, estimated by the Board of Park Commissioners to be sufficient to pay for the cost of any damage to said boulevard, parkway, avenue, street, park road or sidewalk space caused by any work being done under the authority of said permit; and if repairs and restoration are made under the supervision and to the satisfaction of the Board of Park Commissioners at the expiration of such permit, and no damages have occurred to said boulevard, parkway, avenue, street, park road or sidewalk space, then the deposit will be returned in full; but upon failure of the person obtaining such a permit to repair and restore conditions as above provided, within five days of the expiration of such permit, the Board of Park Commissioners may proceed to make such repairs and deduct the cost of same from such deposit; the balance, if any, to be returned to the person obtaining said permit.

Sec. 1039. Animals or Vehicles Standing on Boulevards.—

No horse nor mule, nor any animal attached to a vehicle shall be permitted to stand upon any portion of any boulevard, parkway, avenue or park road of said city, unless the driver thereof is in charge of and accompanies the same; or unless such animal be securely hitched to a hitching post, erected with the approval of the Board of Park Commissioners; nor shall any vehicle, horse, mule or animal be permitted to stand upon any boulevard, parkway, avenue, street, or park road to the obstruction of the same or to the inconvenience of travel.

Sec. 1040. Racing, Speeding, Etc., on Boulevards.—No person shall engage in any racing, speeding or fast driving on any boulevard, parkway, avenue, street or park road of said city, except on such part or portion of any boulevard, parkway, avenue, street or park road as may be set apart by the Board of Park Commissioners for that purpose, and then only under such regulations as the Board of Park Commissioners may prescribe.

Sec. 1041. Animals and Vehicles on Sidewalks, Grass, Etc.—Herds of Animals—Roller Skating Prohibited.—No velocipede, bicycle, tricycle, wheelbarrow, handcart, nor other vehicle, nor any horse, mule, cattle, chickens, ducks, geese nor swine shall be placed by the owner or any other person in charge or control thereof, or be permitted by the same, upon the sidewalks, curbstones, grass plots or planting spaces of any park, boulevard, parkway, avenue, street or park road, nor to cross the same. Nor shall such vehicle, fowl or animal be taken upon any part thereof, except upon the carriage drives

and crossings provided therefor. Nor shall any horses, mules, cattle, sheep, fowls or swine be driven loose, singly or in herds, on any boulevard, parkway, avenue, street or park road of said city. Nor shall any dog be taken or permitted in or upon any park, except the same be led and secured at all times by cord or chain of not greater length than ten (10) feet. Roller skating on the sidewalks of any boulevard, avenue, street or parkway is prohibited.

Sec. 1042. Hitching Animals—Driving Over Sidewalks. Etc.—No person shall hitch any horse or other animal to any lamp post, tree or fire hydrant on any boulevard or parkway, or ride or drive over the curbstone, sidewalks or grass plots thereon, nor shall any person permit any horse, mule or other animal to stand so near to any tree on any boulevard or parkway or in any park that such animal can damage the same by biting or otherwise.

Sec. 1043. Rubbish on Sidewalks, Etc.—No owner, occupant or agent of any land abutting upon any boulevard, avenue, street or parkway of said city shall allow the earth of any rubbish from said land to fall or wash upon any part of said boulevard, avenue, street or parkway. Nor shall any person throw or cause to be thrown any dirt or rubbish of any kind upon any such park, boulevard, parkway, avenue, street or park road.

Sec. 1044. Building Material on Boulevards, Etc.—No person shall place or deposit or allow to be placed or deposited on any boulevard, avenue, street, parkway or park road of said city, any building material whatsoever or any other articles or things which shall obstruct or hinder the travel thereon, without a written permit from the Board of Park Commissioners, which said permit shall state how great a space will be allotted on which the same may be placed or deposited, the amount of cash deposit or its equivalent as provided in Section 1039 of this article, and the length of time during which said permit shall be in force; but no obstruction nor deposit of any kind shall be placed upon the sidewalk of any boulevard or parkway.

Sec. 1045. Obstructions on Boulevards, Etc.—Red Lights.—Every person having the use of any portion of any boulevard, parkway, avenue, street or park road of said city, for the purpose of erecting or repairing any building or for any other purpose shall cause two (2) red lights to be placed in a conspicuous place, one at each end of such obstruction from dusk until sunrise in the morning of each

day during the time such obstruction shall remain, and shall also construct and maintain proper safeguards and a good and safe plank sidewalk around such obstruction, which sidewalk shall be at least two (2) feet wide.

Sec. 1046. Games Prohibited—Crossing Grass Plots.—No person shall play any game whatsoever in or upon any of the parks, boulevards, avenues, streets, parkways or park roads under the control of the Board of Park Commissioners; *provided*, however, that ball, cricket, lawn tennis and other games of recreation may be played upon such portions of said parks as may be designated from time to time by the Board of Park Commissioners, and under such rules and regulations as may be prescribed by said Board. The grass plots or lawns of public parks and parkways shall not be used by any person as thoroughfares in crossing from one roadway, walk or street to another roadway, walk or street. But this Section shall not be construed to interfere with the use of public parks or parkways as pleasure grounds by the people for the purpose of recreation under such reasonable rules and regulations as may be prescribed by the Board of Park Commissioners.

Sec. 1047. Dangerous Sports Prohibited.—No person shall engage in any sport upon any boulevard, avenue, street, parkway, park road or driveway under the control or supervision of the Board of Park Commissioners which will be likely to frighten horses, injure passengers or embarrass the passage of vehicles thereon.

Sec. 1048. Discharging Fire Arms, Explosives, Etc., Prohibited.—No person shall fire or discharge any gun or pistol, or carry fire-arms, or throw stones or other missiles, or fire, discharge or set off any rocket, cracker, torpedo, squib or other fireworks or things containing any substance of an explosive character within any park, boulevard, avenue, street, parkway, or driveway of this city under the control or supervision of the Board of Park Commissioners, except upon a permit first duly obtained or authority previously granted by said Board and subject to such rules and regulations as said Board may establish.

Sec. 1049. Selling Goods—Posting and Distributing Hand Bills, Etc.—Prohibited.—No person shall expose any article or thing for sale, or do any hawking or peddling, or distributing hand-

bills, or erect any sign board or posts, or affix any notice or bill or other writing or printing on any tree, lamp post, hydrant, curbstone, sidewalk, coping, flagstone, fence, wall, building or other place in any park, boulevard, avenue, street, parkway, park road, driveway, or other public grounds under the control or supervision of the Board of Park Commissioners of said city. Nor shall any person drive any animal or vehicle displaying an advertising placard of any kind; nor shall any person display any placard or advertisement of any kind upon or along any boulevard, avenue, street, parkway, park road or in any park or other public grounds under the control and management of the Board of Park Commissioners of said city.

Sec. 1050. Cutting, Defacing, Injuring Trees, Shrubs, Etc.

—No person shall cut, break or in any way injure or deface any of the trees, shrubs, plants, turf, grass, lamp posts, fences, bridges, buildings, or other constructions of property in or upon any park, boulevard, avenue, streets, parkways, park roads or other public grounds of said city under the control or supervision of the Board of Park Commissioners.

Sec. 1051. Bicycles, Etc., Must Keep on Certain Paths, Etc.

—All persons riding bicycles, tricycles or velocipedes in parks or upon parkways, boulevards or park roads shall be required to keep upon the paths specially provided for the same, or upon the roadway, and in no case shall be permitted to ride upon the sidewalks, foot-paths or upon the parking or grass.

Sec. 1052. Pleasure Vehicles Only in Parks.—No vehicles other than those used for pleasure driving or other than such carts or other vehicles as may be employed by the Board of Park Commissioners in the construction of or caring for said parks, shall be permitted to enter said parks.

Sec. 1053. Lewd or Disorderly Conduct—Sleeping in Parks, Etc.—No person shall be guilty of disorderly, unchaste or lewd conduct, or of habitual loafing or sleeping on the ground or benches, or make, aid or assist in making any disorderly noise or riot or breach of the peace within the limits of any park, boulevard, avenue, street, parkway or other public grounds of the city.

Sec. 1054. Sidewalks, Construction of.—All sidewalks hereafter constructed on boulevards, avenues, streets and parkways under

the control of the Board of Park Commissioners, shall be of artificial stone or other durable material selected by the Board of Park Commissioners and shall be of such width as the Board of Park Commissioners may establish in each case, and they shall be uniform in character and appearance throughout each boulevard and parkway, and they shall be otherwise constructed and laid strictly in accordance with the plans and specifications and under the supervision of the Board of Park Commissioners.

Sec. 1055. Driveways Connecting Private Property With Boulevards, Etc.—All that part or portion of driveways connecting private property with the roadway and lying between the lot line and the roadway on all boulevards and parkways and other avenues under the control of the Board of Park Commissioners, shall be constructed by the Board of Park Commissioners, or under its supervision, at the expense of the property owner, and of such width as the Board of Park Commissioners may determine in each case; *provided*, however, that the maximum width required by said Board shall not exceed nine (9) feet; *provided*, further, that at the request of the property owner a special permit may be granted by said Board of Park Commissioners for a greater width, and such driveways shall be constructed in accordance with the plans and specifications furnished by and under the provision of the Board of Park Commissioners, and their location shall be with the consent of said Board of Park Commissioners.

Sec. 1056. Foot-Ways.—On all boulevards, avenues, streets and parkways, under the control of the Board of Park Commissioners, there shall be constructed at the expense of the property owner, foot-ways connecting private property with the public walk, and also with the curb line where necessary. There shall be not more than one foot-way for each residence, except by special permit of the Board of Park Commissioners. Such foot-ways shall be located at such points as the Board of Park Commissioners may direct or designate. The width of such foot-ways shall in all cases be established by the Board of Park Commissioners and be constructed of the same materials and in accordance with the plans and specifications governing the construction of public walks with which said foot-ways connect. The rise of all such foot-ways from top of curb to the property line shall be at the rate of one fourth ($\frac{1}{4}$) of an inch to each foot; *provided*, however, that this rate of slope may be increased or diminished by permission of the Board of Park Commissioners when in their judg-

ment such change will not be detrimental but will improve the appearance of said boulevard, avenue or parkway.

Sec. 1057. Fences Around Grass Plots, Etc., Prohibited.—No person shall be permitted to build or place any fence or other barrier around any grass plots or planting spaces on any boulevard or parkway.

Sec. 1058. Penalty.—Any person who shall violate any of the foregoing provisions, rules and regulations, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00), for each and every offense.

Sec. 1059. Recommended by Board of Park Commissioners.—The Common Council finds and declares that the action of the Common Council herein has been recommended by the Board of Park Commissioners of Kansas City, Missouri, as provided by law, and that said Board has adopted said rules and regulations and has recommended to the Common Council the establishment and enforcement of the same by Ordinance as herein provided.

ARTICLE VIII.

POLES AND WIRES.

Section.

- 1060. Who is Subject to the Provisions of This Article.
- 1061. Poles Shall be Placed in Alleys. When.
- 1062. Only Certain Poles Shall be Used—Must be Painted—Iron Steps Provided—Height of Wires—Poles on Streets, Placed Where.
- 1063. Proposed Location of Poles Submitted to Board of Public Works—Excavation, Etc., Under Supervision of Superintendent of Street Repairs.

Section.

- 1064. Right to Alter Location of Poles—Notice of Alteration—Failure to Alter Location.
- 1065. Deposit Required—How Used—Failure to Make.
- 1066. Rights Reserved by City.
- 1067. What Shall be Paid City for Use of Streets.
- 1068. Owners of Poles and Wires Shall File Statement and Pay City Treasurer Certain Sums.
- 1069. Incorrect Statement—Duty of Comptroller.
- 1070. Penalty.

Charter, Art. III, Sec. 1, Cl. 4. Charter, Art. III, Sec. 1, Cl. 11.

Sec. 1060. Who is Subject to the Provisions of This Article.—All telegraph, telephone, electric light companies, and all

persons and partnerships doing business in the City of Kansas City, by erecting poles for the purpose of carrying electric wires over or through the streets and alleys of Kansas City, are hereby made subject to the regulations hereinafter provided.

Sec. 1061. Poles Shall be Placed in Alleys, When.—Whenever in the judgment of the Board of Public Works the use of any alley, for such purpose, is practicable, the poles of such companies shall be placed upon and along said alleys, instead of upon and along the streets next adjoining and parallel thereto. Where the poles are set in any alley, they shall be located as near the side lines of the alley as practicable, and in such manner as not to incommode the public or adjoining property owners or residents.

Sec. 1062. Only Certain Poles Shall be Used—Must be Painted—Iron Steps Provided—Height of Wires—Poles on Streets, Placed Where.—The poles used, as herein provided, shall be of sound timber, not less than five (5) inches in diameter at the upper end thereof, shapely and of uniform size, neatly planed or shaved, thoroughly painted with two coats of lead and oil paint of such colors as may be directed by the Board of Public Works, and to be supplied with iron steps commencing twelve (12) feet from the surface of the ground, and reaching to the cross arms supporting the wires; said wires shall be run at a height of not less than twenty-five (25) feet from the grade of the street or alley upon which the same are erected. Whenever poles are erected on a street they shall be placed in all cases, when practicable, on the edge of the sidewalk just inside the curbstone, and on the line dividing the lots or near there, and in any case to be so placed as to not obstruct the drainage of the streets, or to interfere with or damage in any way the curbstones, trees or other public or private property on the line of the street or alley where said poles shall be erected. And each pole shall be marked with the name of the owner in a conspicuous place.

Sec. 1063. Proposed Location of Poles Submitted to Board of Public Works—Excavations, Etc., Under Supervision of Superintendent of Street Repairs.—Before any one shall erect any poles upon any street or alley of this City, he shall submit for approval to the Board of Public Works, the route of the proposed line or lines, stating the name of the street or streets to be occupied, or if

any alley, the number of the block, and the name of the addition, and as far as is practicable the exact location of each pole. The work of excavating, refilling and restoring the pavement shall be done under the supervision and direction of the Superintendent of Street Repairs, and to his entire satisfaction, and in all cases the pavement shall be restored as promptly as possible, and to the same condition it was before such excavation was made.

Sec. 1064. Right to Alter Location of Poles—Notice of Alteration—Failure to Alter Location.—The right is hereby reserved to the Board of Public Works at any time to direct any alterations in the location of said poles, and also in the height at which wires shall run; but before any such alteration is made at least five (5) days notice in writing shall be given to the President or local officer of each of the companies or persons or partnerships affected by the proposed alteration; a reasonable opportunity shall be afforded the representative of such company, or person or partnership, or any citizen interested to be heard therein. But, when any such alteration shall be ordered, the said company, person or partnership, shall within (5) days thereafter, commence such alterations and complete same as soon as practicable thereafter; and upon failure so to do, it shall be guilty of a misdemeanor, and punished as hereinafter provided.

Sec. 1065. Deposit Required—How Used—Failure to Make.—Every telegraph, telephone, electric light or other company, and every person, or partnership owning poles upon which electric wires are strung, and doing business in this City, shall keep on deposit with the City Treasurer the sum of Fifty Dollars (\$50.00), subject to the order of the Superintendent of Street Repairs to be used by him in restoring any sidewalk, gutter, street or alley pavement displaced or injured in the erection, alteration or removal of any pole of such company, person or partnership, when said company, person or partnership refused or fails to make such restoration to the satisfaction of the said Superintendent.

Any company, person or partnership failing to make such deposit within five (5) days after commencing business; and

any failure to make good the amount when any portion of it has been expended as herein provided within five (5) days after notice so to do has been sent by the Superintendent of Street Repairs shall be guilty of a misdemeanor, and punished as herein-after provided. And no permit shall be granted to any such person, firm or corporation so in default.

Sec. 1066. Rights Reserved by City.—Nothing contained in this article shall be so construed as to in any manner affect the right of the City in the future to prescribe any other mode to conduct such wires over or under its thoroughfares; nor to any further regulations. Nor shall this article be so construed as relieving any such company, person or partnership from the duty to remove the poles from the streets, alleys and highways, and place the wires under ground when required by ordinance of the City.

Sec. 1067. What Shall be Paid City for Use of Streets.—All telegraph, telephone, electric light, and other electric companies, and all persons and partnerships owning pole lines upon which electric wires are strung, which are not by ordinance taxed on their gross income for such purpose, shall pay to the City of Kansas City, for the privilege of using the streets, alleys and public places thereof, the sum of One (1) Dollar per annum for each and every pole; and fifty (50) cents per mile for open wire, and twenty-five (25) cents per mile for each wire enclosed in aerial cables, erected or used by them in the streets, alleys, and public places in said City; but this section shall not apply to any poles used by the Police or Fire Department of the City, for the purpose of a police telegraph or fire alarm system, which the City has the right to purchase.

Sec. 1068. Owners of Poles and Wires Shall File Statement and Pay City Treasurer Certain Sums.—The principal officer located in Kansas City, of each and every company, person and partnership aforesaid, shall during the month of March in each year file with the City Comptroller a statement in writing under oath, specifying the number of poles in use by him, or his company or partnership, on the first day of March of said year, and said company, person or partnership shall, at the same time, pay

to the City Treasurer, for the use of said City, the sum of One Dollar (\$1.00), for each and every pole owned or used by him or it; and fifty (50) cents per mile for all open wire, and twenty-five (25) cents per mile for all wire enclosed in aerial cables, for the year then commencing on the first day of March.

Sec. 1069. Incorrect Statement—Duty of Comptroller.—If the City Comptroller shall not be satisfied of the correctness of any statement so made by such officer, he shall have the power to require such officer to appear before him with the books and papers of the company, person and partnership, and submit to an examination concerning the matters aforesaid; and if it shall be ascertained to the satisfaction of the City Comptroller on such examination, or in any other manner, that such officer has not returned the full number of poles in use, as above provided, he shall order the company to pay him forwith the deficiency ascertained by such examination.

Sec. 1070. Penalty.—Every violation of this ordinance shall be a misdemeanor; and the person, partnership or corporation, or principal officer thereof, in Kansas City, violating same, shall, upon conviction, be fined not less than fifty dollars (\$50.-00), nor more than Five Hundred Dollars (\$500.00), for each offense; and every day's refusal or neglect to pay the amount aforesaid after the same is due as herein provided, shall constitute a separate offense.

And the City shall have the further right to collect said sum by any appropriate, legal or equitable action, and to enforce its rights in any way permitted by law. So long as such person, firm or corporation is in default, under this article, no permits shall be granted to it.

Sec. 1071. Repealing Clause. All ordinances and parts of ordinances of a general nature not herein contained, except the Building Code and any ordinance affecting the Building Code, are hereby repealed; but in construing this provision no ordinance granting any right or privilege therein mentioned to individuals, firms or corporations, or fixing the salary, wages or compensation, or authorizing the appointment or employment, of any officer or employe

of the city, shall be held to be a general ordinance; nor shall any ordinance approved since the 14th day of July, 1909, be repealed or in any way affected by any of the provisions of this ordinance.

Passed January 31, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed January 31, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 2, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

February 7, 1910.

The following ordinances are all of the general ordinances enacted since July 14th, 1909, the date when the revision of the ordinances was completed for the printer. The first nine ordinances were passed at various times before the revised ordinances were enacted, and while they were excepted in the repealing clause of the revision, they have been re-enacted without change since the adoption of the revision so as to insure their validity.

APPENDIX.

AN ORDINANCE

AMENDING CHAPTER 11 OF THE REVISED ORDINANCES OF KANSAS CITY
APPROVED JANUARY 15TH, 1898, BY ADDING A NEW SECTION
THERE TO TO BE KNOWN AS SECTION 641-A.

Be it ordained by the Common Council of Kansas City, Missouri:

Section 1. That Chapter 11, of the Revised Ordinances of Kansas City, Missouri, approved January 15th, 1898, be and the same is hereby amended by adding a new section thereto to be known as Section 641-A, which said section shall read as follows:

Section 641-A. Provided, however, that nothing herein contained shall apply to notices, signs or advertisements in aid of public enterprises, festivals, fairs or entertainments, where there is no personal or private gain or profit, and provided further that in order to insure public safety, all notices, signs and advertisements so given in aid of any public enterprise, festival, fair or entertainment, must be put up only under the direction and under the immediate supervision of the Superintendent of Buildings, and that before erecting any such notices, signs or advertisements in pursuance of this ordinance a permit must be first obtained from the Superintendent of Buildings.

Sec. 2. All ordinances and parts of ordinances in conflict herewith, insofar as they conflict, are hereby repealed.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

AN ORDINANCE

PROVIDING FOR THE LICENSING OF STREET RAILWAY CARS.

Be it ordained by the Common Council of Kansas City:

Section 1. Every person, firm or corporation engaged in the operation of street railway cars in and upon the streets, alleys or public places of Kansas City, Missouri, not otherwise provided for by ordinance, shall pay as license on said cars the sum of fifty dollars (\$50.00) per car per annum on the average number of cars operated.

Sec. 2. Nothing in this ordinance shall be construed as contradictory or in any wise repealing Ordinance No. 22780.

Sec. 3. Any person, firm or corporation violating, neglecting or refusing to comply with the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00) for each and every offense.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

AN ORDINANCE

**PROHIBITING THE BARTER OR EXCHANGE OF JUNK, OLD METALS OR
SECONDHAND ARTICLES BY MINORS.**

Be it ordained by the Common Council of Kansas City:

Section 1. No person keeping a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall directly or indirectly, either purchase or receive, by way of barter or exchange, any junk, old metals or secondhand articles, from a minor knowing, or having reason to believe, him to be such.

Sec. 2. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five dollars nor more than one hundred dollars.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

AN ORDINANCE

PROVIDING FOR THE REGULATION AND LICENSING OF AUCTION HOUSE PROPRIETORS AND FIXING A PENALTY FOR THE VIOLATION OF THE SAME.

Be it ordained by the Common Council of Kansas City:

Section 1. That every person, firm or corporation who may be auction house proprietors, before exercising such occupation, shall procure a license from the city.

Sec. 2. The fee for such license shall be the sum of one hundred and fifty dollars (\$150.00) a year, and all licenses issued under this ordinance shall expire on January 4th and July 4th of each year.

Sec. 3. Any person, firm or corporation who shall advertise their place of business, either by publication in newspapers, hand bills or inscription upon buildings or any part thereof, as an auction house, shall be deemed auction house proprietors, and shall be subject to the license fee herein provided for.

Sec. 4. Any person paying auction house proprietor's license shall have the privilege of conducting auction sales without taking out auctioneer's license, and shall be exempt from auctioneer's license.

Sec. 5. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00).

Sec. 6. All ordinances, or parts of ordinances, in conflict with this ordinance, are, insofar as they so conflict, hereby repealed.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

AN ORDINANCE

PROHIBITING THE STEALING, TAKING, DRIVING OR USING, WITHOUT THE ORDER OR CONSENT OF THE OWNER THEREOF, ANY AUTOMOBILE, OR OTHER VEHICLE, AND FIXING A PENALTY FOR THE VIOLATION THEREOF.

Be it ordained by the Common Council of Kansas City, Missouri:

Section 1. Any person who shall steal, take or drive away from its place upon any public place, or in any stable, garage or shelter, and use, without the consent or order of the owner thereof, any automobile or other vehicle, not his own property, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be fined not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00).

Sec. 2. All ordinances, or parts of ordinances, in conflict with this ordinance are, insofar as they so conflict, hereby repealed.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

AN ORDINANCE

PROHIBITING THROWING OR DEPOSITING IN ANY STREET, HIGHWAY, LANE OR ALLEY OR PUBLIC PLACE OR SQUARE, ANY GLASS, TACKS OR SHARP SUBSTANCES, AND PROVIDING A PENALTY THEREFOR.

Be it ordained by the Common Council of Kansas City:

Section 1. No person shall himself or by another throw, place, deposit, or leave in any street, highway, lane, alley, public place or square, any glass, broken or unbroken, or any metal, stone, earthenware, tacks, cinders, nails, boxes, boards, baskets, or other substances of a nature likely to cause injury to travelers or pedestrians, or to carriage, bicycle or other vehicle, or to injure any horse or other animal, or which might injure, cut or puncture any pneumatic tire.

Sec. 2. Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and for such offense, upon conviction thereof, be fined not to exceed twenty-five dollars (\$25.00).

Sec. 3. All ordinances, or parts of ordinances, in conflict with this ordinance, are, insofar as they so conflict, hereby repealed.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] **Attest:**

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

AN ORDINANCE

RELATING TO THE LICENSING OF INSURANCE COMPANIES, MAINTAINING AGENCIES OR OFFICES IN THIS CITY, AND OF AGENTS OF INSURANCE COMPANIES, FIXING THE AMOUNT OF CHARGE FOR SUCH LICENSES, AND PROVIDING PENALTIES FOR A VIOLATION OF SAID ORDINANCE.

Be it ordained by the Common Council of Kansas City:

Section 1. No person, firm or corporation shall engage in the business, trade, profession or calling of insurance, as agent for an insurance company, or no insurance company shall maintain an office of agency doing an insurance business in this city, without first securing a license for the same from the city. The amount to be paid for such license shall be as follows:

For any office or agency doing business in fire, life or accident insurance, or any insurance agent or agents doing business for any such company, one hundred dollars (\$100.00) per year.

For any office or agency doing business in surety, liability, fidelity, plate glass or steam boiler insurance, or any insurance agent or agents doing business for any such company, twenty-five (\$25.00) per year.

Sec. 2. In the event that any insurance company doing such business shall have more than one agent, agency or office doing such insurance business within the city limits, then the sum so fixed in Section 1 of this ordinance shall be required to be paid for each agent, agency or office doing such insurance business within the city. *Provided*, however, that solicitors employed by any such insurance company, or its agent, agency or office, working either on a salary or commission, and who shall have their office with the insurance company, agent, agency or office by whom they are employed, shall not be required to pay the license per year herein provided for. But any solicitor who shall have an office or separate place of business where business for any such insurance company, agency or office is solicited or policies delivered, and contracts of insurance made, or which place of business shall be published as being an insurance agency, shall be held to be an agent within the meaning of this ordinance, and shall be required to pay the license hereinbefore provided for.

APPENDIX.

Sec. 3. Such license charge shall be paid annually in advance on the 4th day of January of each and every year.

Sec. 4. The license fee hereinbefore provided for shall be in full for and in lieu of all taxes and licenses to be paid for any such agencies.

Sec. 5. The city license inspector shall, upon payment of the fees herein provided for, issue to such agent or agents a license, in the name of the city, to do the business of such company at such agency or office, for one (1) year, which license shall be renewed from year to year if demanded.

Sec. 6. Any person, firm or corporation who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars (\$10.00), nor more than three hundred dollars (\$300.00) for each and every offense: and each day's violation of any of the requirements of this ordinance shall be deemed a separate offense.

Sec. 7. All ordinances, or parts of ordinances, in conflict with this ordinance, are, insofar as they so conflict, hereby repealed.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

APPENDIX.

AN ORDINANCE

AMENDING AN ORDINANCE ENTITLED "AN ORDINANCE FIXING THE AMOUNT OF LICENSE TO BE PAID TO THE CITY BY ANY CIRCUS EXHIBITING IN KANSAS CITY AND REGULATING RESERVED SEATS AND PROVIDING FOR A DEPOSIT FOR PROPER CLEAN UP OF CIRCUS GROUNDS," BY ADDING THREE NEW SECTIONS THERETO, TO BE KNOWN AS SECTIONS FOUR, FIVE AND SIX, PROHIBITING ISSUANCE OF SUCH LICENSE TO ANY CIRCUS OR MENAGERIE TO EXHIBIT ON CHRISTMAS DAY, THE FOURTH OF JULY AND THE FIRST MONDAY IN SEPTEMBER (THE LATTER BEING LABOR DAY). AND FORBIDDING THE SAME FROM GIVING AN EXHIBITION OR PERFORMANCE WITHIN THE CORPORATE LIMITS OF KANSAS CITY, MISSOURI, ON SUCH DAYS, AND CHANGING THE NUMBER OF SECTIONS FOUR, FIVE AND SIX TO CORRESPOND WITH SUCH NEW SECTIONS.

Be it ordained by the Common Council of Kansas City:

Section 1. That an ordinance entitled, "An ordinance fixing the amount of license to be paid to the city by any circus exhibiting in Kansas City and regulating reserved seats and providing for a deposit for proper clean up of circus grounds," by the addition of three new sections thereto, to be numbered as Sections 4, 5 and 6, and changing the number of Sections 4, 5 and 6.

Sec. 4. No such license shall issue to any circus or menagerie, to give any exhibition within the corporate limits of Kansas City, Missouri, on Christmas day, the fourth day of July and the first Monday in September, the latter known as "Labor Day," and all being public holidays.

Sec. 5. It shall be unlawful for any person, firm or corporation to exhibit or participate in any circus, menagerie or circus and menagerie within the corporate limits of Kansas City, Missouri, on Christmas, the fourth day of July, or the first Monday in September, the latter being "Labor Day."

Sec. 6. That the number of Section 4 be changed to Section 7 and Section 5 be changed to Section 8 and Section 6 be changed to Section 9.

APPENDIX.

Sec. 7. All ordinances, or parts of ordinances, in conflict with this ordinance are hereby repealed, insofar as they conflict with this ordinance.

Passed February 7, 1910.

**F. J. SHINNICK,
Speaker, Lower House of
the Common Council.**

Passed February 7, 1910.

**R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.**

[SEAL] Attest:

**M. A. FLYNN,
City Clerk.**

Approved February 9, 1910.

**THOMAS T. CRITTENDEN, JR.,
Mayor.**

APPENDIX.

AN ORDINANCE

AMENDING AN ORDINANCE ENTITLED, "AN ORDINANCE CREATING A BOARD OF PARDONS AND PAROLES AND DEFINING ITS POWERS AND DUTIES," GRANTING NEW AND ADDITIONAL POWERS THERETO AND ADDING NEW SECTIONS THERETO AND CHANGING THE NUMBERS OF THE SECTIONS THEREOF TO CONFORM TO SUCH NEW ADDED SECTIONS.

Be it ordained by the Common Council of Kansas City:

Section 1. That an ordinance entitled, "An ordinance creating a Board of Pardons and Paroles and defining its powers and duties," be amended by adding a new section thereto to be known as Section 6, which section shall read as follows:

"Sec. 6. The board shall have control and management of the workhouse and shall have the power to establish and declare rules and regulations for its government and control and shall have power and authority to enforce such rules and regulations, and in case any employe shall fail, neglect or refuse to carry out and enforce such rules and regulations as established by the Board of Pardons and Paroles, it shall have power and authority to discharge such employe, and it shall be the duty of such board to, at all times, keep itself informed as to the conditions at such workhouse and to make such changes in its management and control as the board may from time to time deem proper and shall make report of the condition of such workhouse and the treatment of prisoners confined therein to the mayor of Kansas City, as often as it thinks proper, and it shall from time to time suggest to the mayor such ordinances as it deems proper to be passed by the Common Council of Kansas City touching the management and control of such workhouse."

Sec. 2. That said ordinance be amended by adding a new section thereto, to be known as Section 7, which section shall read as follows:

"Sec. 7. It shall be the duty of the superintendent of the workhouse to carry out and enforce all the rules and regulations that may be made by the Board of Pardons and Paroles touching the management and control of the same."

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Sec. 3. That said ordinance be amended by adding a new section thereto, to be known as Section 8, which said section shall read as follows:

"Sec. 8. In case the board shall at any time discover or learn of any mismanagement of the workhouse or mistreatment of the prisoners confined therein, such board shall have full power to and it shall be the duty of such board to fully investigate such charges of mismanagement or mistreatment of the prisoners, together with the official or employe charged therewith; and it shall be empowered to hear evidence in regard to the same and to give the official or employe against whom such charges may be made, a fair and impartial trial and shall be empowered to subpoena and compel the attendance of witnesses upon such investigation. And if the board, upon such investigation, shall determine that the superintendent of such workhouse shall have been guilty of a violation of any of the rules and regulations made by the board for the control and management of the workhouse, or shall have failed to discharge his duty as such superintendent in any respect or shall have been guilty of any mistreatment of the prisoners confined therein, such board shall immediately report the same to the mayor, together with such recommendations as it may see fit and proper; and in case an employe shall have been found guilty of a violation of any of the rules and regulations of the board, and shall have failed to discharge his duties as such employe in any respect, such board shall have power to discharge or suspend such employe as it may deem proper."

Sec. 4. That said ordinance be amended so that Section 6 in said ordinance be changed and numbered as Section 9, and Section 7 in said ordinance be changed and numbered as Section 10, and Section 8 in said ordinance be changed and numbered as Section 11, and Section 9 of said ordinance be changed and numbered as Section 12, in order that said sections may conform to the amendments herein.

Passed February 7, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed February 7, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

Approved February 9, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

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ORDINANCE No. 3833.

AN ORDINANCE DIVIDING AND REDISTRICTING KANSAS CITY INTO SIXTEEN WARDS AND DEFINING THE BOUNDARIES THEREOF.

WHEREAS, The corporate limits of Kansas City have been extended by an amendment to the City Charter, adopted at an election, held on the 4th day of August, 1908, and the population of said city has been so increased as to render, in the opinion of the Common Council, a redistricting of said city into wards necessary.

Now, THEREFORE, Be it ordained by the Common Council of Kansas City :

Section 1. That Kansas City be and is hereby redistricted and divided into sixteen wards, the boundaries whereof shall be as follows :

First Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the First Ward :

Beginning at a point where the center line of Grand Avenue intersects the center line of the main channel of the Missouri River, thence south along the center line of Grand Avenue to the center line of Twelfth Street, thence west along the center line of Twelfth Street to the center line of Pennsylvania Avenue, thence south along the center line of Pennsylvania Avenue to the center line of Fourteenth Street, thence west along the center line of Fourteenth Street and the center line of Fourteenth Street produced west to the center line of Franklin Street, thence along the center line of Franklin Street in a southerly direction to the center line of Allen Avenue produced north, thence along the center line of Allen Avenue to the center line of the Allen Avenue viaduct, thence along the center line of the Allen Avenue viaduct in a northwesterly direction to the center line of Wyoming Street, thence along the center line of Wyoming Street in a southwesterly direction to the center line of Twenty-third Street produced west, thence along the center line of Twenty-third Street produced west to the western boundary line of the State of Missouri, thence north along the western boundary line of the State of Mis-

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souri to a point where said line intersects the center line of the main channel of the Missouri River, thence along the center line of the main channel of the Missouri River to the place of beginning.

Second Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Second Ward:

Beginning at the intersection of the center line of Twelfth Street with the center line of Grand Avenue, thence west along the center line of Twelfth Street to the center line of Pennsylvania Avenue, thence south along the center line of Pennsylvania Avenue to the center line of Fourteenth Street, thence west along the center line of Fourteenth Street and the center line of Fourteenth Street produced west to the center line of Franklin Street, thence along the center line of Franklin Street in a southerly direction to the center line of Allen Avenue produced north, thence along the center line of Allen Avenue to the south line of Morse's Second Addition, thence eastwardly along the south line of Morse's Second Addition and Morse's First Addition to the center line of Holly Street, thence south along the center line of Holly Street to the center line of Twenty-first Street, thence east along the center line of Twenty-first Street to the center line of Grand Avenue, thence north along the center line of Grand Avenue to the place of beginning.

Third Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Third Ward:

Beginning at the intersection of the center line of Grand Avenue and Twenty-first Street, thence west along the center line of Twenty-first Street to the center line of Holly Street, thence north along the center line of Holly Street to the south line of Morse's First Addition, thence west along the south line of Morse's First Addition and Morse's Second Addition to the center line of Allen Avenue, thence along the center line of Allen Avenue and the Allen Avenue viaduct to the center line of Wyoming Street, thence along the center line of Wyoming Street in a southwesterly direction to the center line of Twenty-third Street produced west, thence west along the center line of Twenty-third Street produced west to the western boundary line of the State of Missouri, thence south along the western boundary line of the State of Missouri to the center line of Thirty-first Street, east of Roanoke Road produced west, thence east along the center line of Thirty-first Street, east of Roanoke Road produced west, and the cen-

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ter line of Thirty-first Street, to the center line of Wyandotte Street, thence north along the center line of Wyandotte Street to the center line of Twenty-seventh Street, thence east along the center line of Twenty-seventh Street to the center line of Wyandotte Street north of Twenty-seventh Street, thence north along the center line of Wyandotte Street north of Twenty-seventh Street to the south line of City View Park produced west, thence east along the south line of City View Park produced west and the south line of City View Park to the center line of Grand Avenue, thence north along the center line of Grand Avenue to the place of beginning.

Fourth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Fourth Ward:

Beginning at the intersection of the center lines of Indiana Avenue and Thirty-first Street, thence west along the center line of Thirty-first Street to the center line of Garfield Avenue, thence south along the center line of Garfield Avenue to the center line of Linwood Boulevard, thence west along the center line of Linwood Boulevard to the center line of Holmes Street, thence south along the center line of Holmes Street to the center line of Thirty-third Street west of Holmes Street, thence west along the center line of Thirty-third Street to the center line of Oak Street, thence north along the center line of Oak Street to the center line of Thirty-third Street west of Oak Street, thence west along the center line of Thirty-third Street west of Oak Street to the center line of Main Street, thence north along the center line of Main Street to the center line of Thirty-third Street west of Main Street, thence west along the center line of Thirty-third Street west of Main Street to the center line of Wyandotte Street, thence north along the center line of Wyandotte Street to the center line of Thirty-first Street, thence west along the center line of Thirty-first Street and the center line of Thirty-first Street produced west to the western boundary line of the State of Missouri, thence south along the western boundary line of the State of Missouri to the center line of Thirty-ninth Street, thence east along the center line of Thirty-ninth Street to the center line of Indiana Avenue, thence north along the center line of Indiana Avenue to the place of beginning.

Fifth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Fifth Ward:

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Beginning at the intersection of the center lines of Holmes Street and Thirty-ninth Street, thence west along the center line of Thirty-ninth Street to the western boundary line of the State of Missouri, thence south along the western boundary line of the State of Missouri to the southern boundary line of Kansas City, thence east along the southern boundary line of Kansas City to the center line of Holmes Street, thence north along the center line of Holmes Street to the place of beginning.

Sixth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Sixth Ward:

Beginning at a point where the center line of Monroe Avenue intersects the center line of the main channel of the Missouri River, thence south along the center line of Monroe Avenue to the north line of North Terrace Park, thence in a southwesterly direction along the north line of North Terrace Park, and the south line of Guinottes' Addition to the center line of Highland Avenue, thence along the center line of Highland Avenue and Highland Avenue produced in a southeasterly direction to its intersection with the west line of Sleek's Addition, thence south along the west line of Sleek's Addition and the west line of Bouton Park and the center line of Highland Avenue to the center line of Fifth Street, thence westwardly along the center line of Fifth Street to the center line of Forest Avenue, thence south along the center line of Forest Avenue to the center line of Missouri Avenue, thence westwardly along the center line of Missouri Avenue to the center line of Harrison Street, thence southeasterly along the center line of Harrison Street to the center line of Independence Avenue, thence east along the center line of Independence Avenue to the center line of Troost Avenue, thence south along the center line of Troost Avenue to the center line of Eighth Street, thence west along the center line of Eighth Street to the center line of Grand Avenue, thence north along the center line of Grand Avenue to a point where said line intersects the main channel of the Missouri River, thence in a northeasterly direction along the center line of the main channel of the Missouri River to the place of beginning.

Seventh Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Seventh Ward:

Beginning at the intersection of the center line of Rochester Avenue, and the center line of Elmwood Avenue produced north,

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thence west along the center line of Rochester Avenue to the center line of Monroe Avenue, thence south along the center line of Monroe Avenue to the north line of North Terrace Park, thence in a southwesterly direction along the north line of North Terrace Park and the south line of Guinotte's Addition to the center line of Highland Avenue, thence along the center line of Highland Avenue and Highland Avenue produced in a southeasterly direction to its intersection with the west line of Sleek's Addition, thence along the west line of Sleek's Addition and the west line of Bouton Park, and the center line of Highland Avenue to the center line of Fifth Street, thence westwardly along the center line of Fifth Street to the center line of Forest Avenue, thence south along the center line of Forest Avenue to the center line of Missouri Avenue, thence westwardly along the center line of Missouri Avenue to the center line of Harrison Street, thence southeasterly along the center line of Harrison St. to the center line of Independence Ave., thence east along the center line of Independence Ave. to the center line of Troost Ave., thence south along the center line of Troost Avenue to the center line of Admiral Boulevard, thence east along the center line of Admiral Boulevard to the center line of Woodland Avenue; thence south along the center line of Woodland Avenue to the center line of Ninth Street, thence east along the center line of Ninth Street to the center line of Kensington Avenue, thence north along the center line of Kensington Avenue to the center line of Independence Avenue, thence east along the center line of Independence Avenue to the center line of Elmwood Avenue, thence north along the center line of Elmwood Avenue to the place of beginning.

Eighth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Eighth Ward:

Beginning at the intersection of the center lines of Ninth Street and Elmwood Avenue, thence west along the center line of Ninth Street to the center line of Woodland Avenue, thence north along the center line of Woodland Avenue to the center line of Admiral Boulevard, thence west along the center line of Admiral Boulevard to the center line of Troost Avenue, thence south along the center line of Troost Avenue to the center line of Eighth Street, thence west along the center line of Eighth Street to the center line of Grand Avenue, thence south along the center line of Grand Avenue to the center line of Thirteenth Street, thence east along the center line of

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Thirteenth Street to the center line of Montgall Avenue, thence south along the center line of Montgall Avenue to the center line of Fifteenth Street, thence east along the center line of Fifteenth Street to the center line of Elmwood Avenue, thence north along the center line of Elmwood Avenue to the place of beginning.

Ninth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Ninth Ward:

Beginning at the intersection of the center lines of Fifteenth Street and Cleveland Avenue, thence west along the center line of Fifteenth Street to Montgall Avenue, thence north along the center line of Montgall Avenue to the center line of Thirteenth Street, thence west along the center line of Thirteenth Street to the center line of Grand Avenue, thence south along the center line of Grand Avenue to the center line of Twentieth Street, thence east along the center line of Twentieth Street to the center line of Troost Avenue, thence north along the center line of Troost Avenue to the center line of Seventeenth Street, thence east along the center line of Seventeenth Street to the center line of Garfield Avenue, thence south along the center line of Garfield Avenue to the center line of Twentieth Street, thence east along the center line of Twentieth Street to the center line of Prospect Avenue, thence south along the center line of Prospect Avenue to the center line of Twenty-first Street, thence east along the center line of Twenty-first Street to the center line of Kansas Avenue, thence north along the center line of Kansas Avenue to the center line of Twentieth Street, thence east along the center line of Twentieth Street to the center line of Cleveland Avenue, thence north along the center line of Cleveland Avenue to the place of beginning.

Tenth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Tenth Ward:

Beginning at the intersection of the center line of Twentieth Street and Cleveland Avenue, thence west along the center line of Twentieth Street to the center line of Kansas Avenue, thence south along the center line of Kansas Avenue to the center line of Twenty-first Street, thence west along the center line of Twenty-first Street to the center line of Prospect Avenue, thence north along the center line of Prospect Avenue to the center line of Twentieth Street, thence west along the center line of Twentieth Street to the center line of

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Garfield Avenue, thence south along the center line of Garfield Avenue to the center line of Thirty-first Street, thence east along the center line of Thirty-first Street to the center line of Cleveland Avenue, thence north along the center line of Cleveland Avenue to the place of beginning.

Eleventh Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Eleventh Ward:

Beginning at the intersection of the center line of Seventeenth Street and Garfield Avenue, thence west along the center line of Seventeenth Street to the center line of Troost Avenue, thence south along the center line of Troost Avenue to the center line of Twentieth Street, thence east along the center line of Twentieth Street, to the center line of Forest Avenue, thence south along the center line of Forest Avenue to the center line of Twenty-fourth Street, thence east along the center line of Twenty-fourth Street to the center line of the alley between Forest and Tracy Avenues, thence south along the center line of the alley between Forest and Tracy Avenues to the center line of Thirty-first Street, thence west along the center line of Thirty-first Street to the center line of Holmes Street, thence south along the center line of Holmes Street to the center line of Linwood Boulevard, thence east along the center line of Linwood Boulevard to the center line of Garfield Avenue, thence north along the center line of Garfield Avenue to the place of beginning.

Twelfth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Twelfth Ward:

Beginning at the intersection of the center lines of Twentieth Street and Forest Avenue, thence west along the center line of Twentieth Street to the center line of Grand Avenue, thence south along the center line of Grand Avenue to the south line of City View Park, thence west along the south line of City View Park and the south line of City View Park produced west to the center line of Wyandotte Street, thence south along the center line of Wyandotte Street to the center line of Twenty-seventh Street, thence west along the center line of Twenty-seventh Street to the center line of Wyandotte Street south of Twenty-seventh Street, thence along the center line of Wyandotte Street south of Twenty-seventh Street to the center line of Thirty-first Street, thence west along the center line of Thirty-first Street to the center line of Wyandotte Street south of Thirty-first

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Street, thence along the center line of Wyandotte Street to the center line of Thirty-third Street, thence northeastwardly along the center line of Thirty-first Street to a center line of Main Street, thence south along the center line of Main Street to the center line of Thirty-third Street east of Main Street, thence east along the center line of Thirty-third Street east of Main Street to the center line of Oak Street, thence south along the center line of Oak Street to the center line of Thirty-third Street east of Oak Street, thence along the center line of Thirty-third Street east of Oak Street to the center line of Holmes Street, thence north along the center line of Holmes Street to the center line of Thirty-first Street, thence east along the center line of Thirty-first Street to the center line of the alley between Forest and Tracy Avenues, thence north along the center line of the alley between Forest and Tracy Avenues to the center line of Twenty-fourth Street, thence west along the center line of Twenty-fourth Street to the center line of Forest Avenue, thence along the center line of Forest Avenue to the place of beginning.

Thirteenth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Thirteenth Ward:

Beginning at the intersection of the center lines of Thirty-ninth Street and Indiana Avenue, thence west along the center line of Thirty-ninth Street to the center line of Holmes Street, thence south along the center line of Holmes Street to the southern boundary line of Kansas City, thence east along the southern boundary line of Kansas City to the center line of Indiana Avenue, thence north along the center line of Indiana Avenue to the place of beginning.

Fourteenth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Fourteenth Ward:

Beginning at the intersection of the center lines of Twenty-seventh Street with the eastern boundary line of Kansas City, thence west along the center line of Twenty-seventh Street to the center line of Hardesty Avenue, thence north along the center line of Hardesty Avenue to the center line of Fifteenth Street, thence west along the center line of Fifteenth Street to the center line of Cleveland Avenue, thence south along the center line of Cleveland Avenue to the center line of Thirty-first Street, thence west along the center line of Thirty-first Street to the center line of Indiana Avenue, thence south along

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the center of Indiana Avenue to the southern boundary line of Kansas City, thence along the southern and eastern boundary lines of Kansas City to the place of beginning.

Fifteenth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Fifteenth Ward:

Beginning at the intersection of the center line of Independence Road with the eastern boundary line of Kansas City, thence westwardly and southwestwardly along the center line of Independence Road to the center line of Independence Avenue, thence west along the center line of Independence Avenue to the center line of Kensington Avenue, thence south along the center line of Kensington Avenue to the center line of Ninth Street, thence east along the center line of Ninth Street to the center line of Elmwood Avenue, thence south along the center line of Elmwood Avenue, to the center line of Fifteenth Street, thence east along the center line of Fifteenth Street to the center line of Hardesty Avenue, thence south along the center line of Hardesty Avenue to the center line of Twenty-seventh Street, thence east along the center line of Twenty-seventh Street to the eastern boundary line of Kansas City, thence along the eastern boundary line of Kansas City to the place of beginning.

Sixteenth Ward.

All that portion of the city embraced within the following boundary lines shall constitute and be the Sixteenth Ward:

Beginning at a point where the eastern boundary line of Kansas City intersects with the center line of the main channel of the Missouri River, thence south along the eastern boundary line of Kansas City to the center line of Independence Road, thence westerly and southwesterly along the center line of Independence Road to the center line of Independence Avenue, thence west along the center line of Independence Avenue to the center line of Elmwood Avenue, thence north along the center line of Elmwood Avenue to the center line of Rochester Avenue, thence west along the center line of Rochester Avenue to the center line of Monroe Avenue, thence north along the center line of Monroe Avenue to a point where it intersects with the center line of the main channel of the Missouri River, thence along

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the center line of the main channel of the Missouri River to the place of beginning.

Sec. 2. All ordinances, or parts of ordinances, in conflict with this ordinance, are, insofar as they so conflict, hereby repealed.

Passed January 31, 1910.

F. J. SHINNICK,
Speaker, Lower House of
the Common Council.

Passed January 31, 1910.

R. E. O'MALLEY,
Acting President, Upper House
of the Common Council.

[SEAL] Attest:

M. A. FLYNN,
City Clerk.

By H. L. HARVEY,
Deputy.

Approved February 1, 1910.

THOMAS T. CRITTENDEN, JR.,
Mayor.

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